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ENVIRONMENTAL ASSESSMENT BOARD



ONTARIO HYDRO DEMAND/SUPPLY PLAN HEARINGS

VOLUME: 88

DATE: Wednesday, December 4, 1991


BEFORE:

HON. MR. JUSTICE E. SAUNDERS	Chairman
DR. G. CONNELL	Member
MS. G. PATTERSON	Member

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ENVIRONMENTAL ASSESSMENT BOARD
ONTARIO HYDRO DEMAND/SUPPLY PLAN HEARING

IN THE MATTER OF the Environmental Assessment Act,
R.S.O. 1980, c. 140, as amended, and Regulations
thereunder;

AND IN THE MATTER OF an undertaking by Ontario Hydro
consisting of a program in respect of activities
associated with meeting future electricity
requirements in Ontario.

Held on the 5th Floor, 2200
Yonge Street, Toronto, Ontario,
on Wednesday, the 4th day of December,
1991, commencing at 10:00 a.m.

VOLUME 88

B E F O R E :

THE HON. MR. JUSTICE E. SAUNDERS	Chairman
DR. G. CONNELL	Member
MS. G. PATTERSON	Member

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1 ---Upon commencing at 10:00 a.m.

2 THE REGISTRAR: Please come to order.

3 This hearing is now in sessions. Be seated, please.

4 THE CHAIRMAN: Mr. Kelsey?

5 MR. KELSEY: Thank you, Mr. Chairman.

6 I would like first of all to thank the
7 panel and the staff and my colleagues for accommodating
8 me out of order.

9 For the assistance of the panel I can
10 indicate what issue I will be dealing with. It's issue
11 2 in the Hydro statement of issues. If I can just read
12 it, I will be confining my examination strictly to the
13 planning issues.

14 Issue 2 in the statement of issues is
15 hydroelectric potential for planning purposes. How did
16 Ontario Hydro arrive at the magnitude of attainable
17 hydroelectric potential. Considerations relating to
18 this issue, methodology for screening, ownership,
19 exclusionary criteria, cost/benefit analysis, and to a
20 limited extent, quantification of hydroelectric
21 resource.

22 The particular items on Northwatch's
23 statement of concerns, to narrow that down a little,
24 are numbers 3, 4, 5, and 7.

25 3 is the applicability of the grounds for

1 rejecting certain sites that Hydro would consider to be
2 acceptable for planning purposes.

3 4, the process which lead Hydro to decide
4 to suspend planning for the Moose River Basin until a
5 co-planning process has been agreed to by the affected
6 Aboriginal groups, and the applicability of the
7 rationale for that decision to other sites and to
8 hydraulic generally.

9 5, the reliability of a planning process
10 for hydraulic sites which results in frequent revisions
11 of Hydro's plans.

12 And 7, the applicability to the north
13 generally of Hydro's concern and it is hydraulic plan
14 for native rights.

15 If everything goes according to plan, I
16 will be - and of course it always doesn't - doesn't
17 always - I will be approximately three hours.

18 THE CHAIRMAN: I hope you're right the
19 second time. (laughter)

20 MR. KELSEY: That's right.

21 I have reviewed the transcripts and I
22 have been present during most of the examination so far
23 and I can't quite guarantee you but I certainly have
24 done my best to eliminate any possibility of
25 duplication.

1 The documents that I will be referring
2 to, there are three groups. The first one which I
3 think the panel has, Documents to be Referred to in
4 Cross-Examination of Ontario Hydro. This one consists
5 of the page extracts that I will be referring to, and
6 they are taken either from documents already made an
7 exhibit on Ms. Kleer's examination, or documents
8 already made an exhibit on Hydro's presentation. The
9 code on the right, MR indicates Ms. Kleer's documents,
10 Moose River, James Bay Coalition documents, and those
11 that have not identifying letters, like No. 3, Exhibit
12 28, is an exhibit filed by Ontario Hydro.

13 THE CHAIRMAN: But the extracts are all
14 in here, though.

15 MR. KELSEY: They are, yes. So, I have
16 tried as far as possible to have all the pages that I
17 will be referring to contained in here. If there are
18 any references they will be references contained in Ms.
19 Kleer's brief of documents and there will be no others.

20 THE CHAIRMAN: It perhaps isn't necessary
21 to make this particular document an exhibit.

22 MR. KELSEY: No, because it's extracts of
23 documents already made exhibits.

24 I think there is one further document, a
25 September 1982 document in Ms. Kleer's brief that I

1 will be making an exhibit, but I think that's the only
2 one.

3 The second group of documents is headed
4 Northwatch Interrogatories, and it's this one. These
5 are the interrogatories that I would like to have made
6 as exhibits, and perhaps I will start by going through
7 them and identifying them.

8 THE CHAIRMAN: All right. Have we had a
9 chance to check? Have any of them already been
10 entered?

11 MR. KELSEY: I don't believe so. I will
12 read the interrogatory identification number and then
13 if they could be given the exhibit number, Mr.
14 Registrar.

15 The first one is Northwatch Interrogatory
16 6.6.4.

17 THE REGISTRAR: That will be 367.87.

18 ---EXHIBIT NO. 367.87: Interrogatory No. 6.6.4.

19 MR. KELSEY: Next one, Northwatch
20 Interrogatory 6.6.7.

21 THE REGISTRAR: 88.

22 ---EXHIBIT NO. 367.88: Interrogatory No. 6.6.7.

23 MR. KELSEY: 6.6.8.

24 THE REGISTRAR: 89.

25 ---EXHIBIT NO. 367.89: Interrogatory No. 6.6.8.

1 MR. KELSEY: 6.6.64.

2 THE REGISTRAR: 90.

3 ---EXHIBIT NO. 367.90: Interrogatory No. 6.6.64.

4 MR. KELSEY: Which has attached to it as
5 the answer, responses to Interrogatory 6.26.290 and
6 6.26.317.

7 And the next one is Northwatch
8 Interrogatory 6.6.52.

9 THE REGISTRAR: That will be 91.

10 ---EXHIBIT NO. 367.91: Interrogatory No. 6.6.52.

11 MR. KELSEY: That has attached to it the
12 answer provided to Interrogatory 6.40.25a.

13 THE REGISTRAR: I'm sorry, what was that
14 one?

15 MR. KELSEY: Has attached to it the
16 answer to 6.14.25a.

17 THE CHAIRMAN: I don't think you need to
18 record that one.

19 MR. KELSEY: No.

20 MS. PATTERSON: It doesn't say "a" after
21 it.

22 MR. KELSEY: No, that's true. It does in
23 the answer to the interrogatory, but it doesn't in the
24 actual answer, that's right.

25 The next one is Northwatch Interrogatory

1 6.6.15.

2 THE REGISTRAR: 92.

3 MR. KELSEY: 6.6.37.

4 THE REGISTRAR: 93.

5 ---EXHIBIT NO. 367.93: Interrogatory No. 6.6.37.

6 MR. KELSEY: 6.6.46.

7 THE REGISTRAR: 94.

8 ---EXHIBIT NO. 367.94: Interrogatory No. 6.6.46.

9 MR. KELSEY: 6.6.21.

10 THE REGISTRAR: 95.

11 ---EXHIBIT NO. 367.95: Interrogatory No. 6.6.21.

12 MR. KELSEY: 6.6.22.

13 MS. HARVIE: Excuse me, Mr. Chairman, Mr.

14 Skuce has just brought to my attention the fact that
15 two of these interrogatories have already been given
16 exhibit numbers.

17 THE CHAIRMAN: In this particular panel?

18 MS. HARVIE: Yes, they have. The first
19 one, 6.6.15 is already 367.4, and 6.6.22 is 367.41.
20 This may be confusing but I don't object to giving it a
21 second number if it makes Mr. Kelsey's life easier.

22 MR. KELSEY: Thank you.

23 THE CHAIRMAN: Well, it would be better
24 not to have it in twice. The first one is 6....

25 MS. HARVIE: 6.15.

1 MR. KELSEY: 92.

2 THE CHAIRMAN: That's No. 4. And what is
3 the other one?

4 MS. HARVIE: 6.6.22.

5 THE CHAIRMAN: We haven't given it a
6 number yet.

7 What number is it, Ms. Harvie?

8 MS. HARVIE: 367.41.

9 THE CHAIRMAN: Is 6.6.23 the next one?

10 MR. KELSEY: Yes.

11 THE CHAIRMAN: Why don't we give it 92, I
12 realize it's a bit out of order, but it might solve
13 that problem.

14 ---EXHIBIT NO. 367.92: Interrogatory No. 6.6.23.

15 MR. KELSEY: Sorry, what was the other
16 one, Ms. Harvie, 6.6.46?

17 MS. HARVIE: No, 6.6.15.

18 MR. KELSEY: Right. What exhibit number
19 is that?

20 MS. HARVIE: It's already 367.41.

21 THE CHAIRMAN: And 6.6.22 is 46, is that
22 right?

23 MS. HARVIE: Is .41 already.

24 THE CHAIRMAN: 41.

25 So 6.6.23 will be 92. Is that all right?

1 MR. KELSEY: Yes. Thank you.

2 The next one is 6.6.28.

3 THE REGISTRAR: 96.

4 ---EXHIBIT NO. 367.96: Interrogatory No. 6.6.28.

5 [10:13 a.m.]

6 MR. KELSEY: 6.6.30.

7 THE REGISTRAR: 97

8 ---EXHIBIT NO. 367.97: Interrogatory No. 6.6.30.

9 MR. KELSEY: 6.6.58.

10 THE REGISTRAR: 98.

11 ---EXHIBIT NO. 367.98: Interrogatory No. 6.6.58.

12 MR. KELSEY: 6.6.59.

13 THE REGISTRAR: 99.

14 ---EXHIBIT NO. 367.99: Interrogatory No. 6.6.59.

15 THE CHAIRMAN: There are two attachments
16 to that.

17 MR. KELSEY: Yes. In fact there are
18 three. Yes, that's the last one, 99.

19 THE CHAIRMAN: Now just to make sure.
20 You didn't refer to 6.6.11, and I take it that was
21 omitted deliberately?

22 MR. KELSEY: Yes.

23 THE CHAIRMAN: In fact I don't think it's
24 in the package.

25 MR. KELSEY: Well, actually, no, that was

1 right. I think it was omitted from the package so it
2 is omitted from my case. (Laughter) I am not going to
3 insert it now, whatever it is.

4 THE CHAIRMAN: All right.

5 MR. KELSEY: I will have a look at the
6 break.

7 THE CHAIRMAN: All right.

8 JUNE BASU ROY,
9 KENNETH SNELSON,
10 ERSKINE LEE FLOOK,
11 THOMAS EASTON WIGLE,
ALANNA MARY QUINN,
BRIAN JOHN MCCORMICK,
REED CAMERON HARRIS; Resumed.

12 CROSS-EXAMINATION BY MR. KELSEY:

13 Q. As I have indicated, panel, I am
14 going to be dealing with and asking you questions on
15 the general planning approach methodology that Hydro
16 has adopted. And when I asked questions on the costing
17 panel, I asked the panel a general question - I think
18 Mr. Snelson will remember this - as to whether the
19 evidence that Hydro puts forward in this hearing and
20 now in this particular panel constitutes Hydro's
21 approach, case, conclusion on a particular issue and
22 does not pretend to be a survey or a balanced approach
23 taking into account all alternatives.

24 And the answer that was given in general
25 on Panel 3 was that the witnesses, Hydro's witnesses

1 put forward Hydro's position and conclusions. Would
2 that also apply to this panel?

3 MR. SNELSON: A. I believe that in
4 general, yes. But that doesn't mean to say we haven't
5 considered and don't put forward our professional views
6 with respect to these matters. But the particulars are
7 Ontario Hydro's current position as supported by --

8 THE CHAIRMAN: Mr. Snelson, I can't quite
9 hear you.

10 MR. SNELSON: Sorry, The particulars are
11 Ontario Hydro's position on these matters, which I
12 believe are in accordance with our professional
13 opinions in this regard.

14 MR. KELSEY: Q. But they are conclusions
15 and don't purport to consider or include other
16 alternative approaches; is that right?

17 MR. SNELSON: A. We present the evidence
18 that we believe is necessary to support the current
19 position.

20 Q. Well, let's start on a matter of
21 detail, and maybe Mr. Snelson, you could answer this
22 question: Would you agree that the planning approach
23 that Hydro has adopted on this panel is an exclusionary
24 one and that the criteria, and without being
25 pejorative, the criteria that have been applied are

1 negative ones, i.e., to exclude possibilities?

2 A. Yes, that's the general nature of
3 them. The intent was to reduce the total hydraulic
4 potential in the province to what we believe is an
5 attainable potential.

6 Q. Would you agree with me that an
7 alternative approach or perhaps the alternative
8 approach would be to develop inclusionary criteria or
9 positive acceptable characteristics of hydroelectric
10 power rather than exclusionary negatives ones?

11 A. I believe we gave a fair amount of
12 evidence about the positive nature of hydroelectric
13 power and that our overall position is that subject to
14 economic considerations and subject to satisfying local
15 environmental concerns, that we have a preference for
16 hydraulic generation because of its positive
17 characteristics.

18 Q. That wasn't quite my question. The
19 seven criteria that have been put forward are
20 exclusionary criteria, and those were the criteria that
21 were used to arrive at your spread of power of 1,400 to
22 1,800 megawatts. Would that be correct?

23 A. Yes.

24 Q. My question is: In order to arrive
25 at a spread of megawatts, would not an alternative

1 approach be to develop positive inclusionary criteria
2 rather than exclusionary negative criteria?

3 A. In theory, yes. I am not sure how
4 practical that would be.

5 Q. Well, let's examine that. One result
6 of an exclusionary approach is that the result is that
7 you arrive at a selection of possibilities or sites but
8 you don't know anything about those sites in a positive
9 way. All you know is that they have not met the
10 negative criteria. Would that be correct?

11 A. In the theoretical sense of having
12 looked solely at exclusionary criteria, yes.

13 Q. You know nothing positive about them
14 at all in principle. And we are talking about models
15 of theoretical planning principles at the moment.

16 A. In theory, yes.

17 Q. You would have no knowledge of what
18 their characteristics or positive aspects were until
19 you examined each of them individually?

20 A. You would have, I suspect, the
21 negative, the double negative qualities of not having
22 an exclusionary criteria.

23 Q. If you compare that with the other
24 approach of developing positive criteria, you know that
25 when you arrive at a result, you know that the results,

1 the sites or the possibilities embody positively the
2 particular positive criteria that you have developed,
3 so you do know something about them, do you not?

4 A. In this theoretical construct, yes.

5 Q. One result of your exclusionary
6 process is that as you are thinking develops and as the
7 thinking in the outside world develops as to what is
8 environmentally acceptable, it is most likely that as
9 your planning process develops, the number of
10 acceptable potential sites diminishes. Would that be
11 correct?

12 A. I'm sorry, I didn't quite catch the
13 gist of that. Would you repeat that, please.

14 Q. When you develop exclusionary
15 criteria in the context of an expanding consciousness
16 of environmental considerations and of what is and what
17 is not acceptable, the most likely result of adopting
18 an exclusionary process is that over a period of time
19 the number of acceptable possibilities decreases as the
20 exclusionary criteria increase.

21 A. Only if the exclusionary criteria are
22 absolute. In some of the cases of our exclusionary
23 criteria, there are things that may change and may lead
24 to sites that are presently excluded not being excluded
25 in the future. So I couldn't accept in practice that

1 this process leads to a diminishing potential.

2 Q. Well, hasn't it, in fact, over the
3 period of time say -- well, let's start in 1978, the
4 hydraulic expansion program that was developed in 1978.
5 That's Exhibit 379. And there is an extract which is
6 the first document in Northwatch's brief of documents.
7 It is 379 and it's an exhibit in the Moose River volume
8 of documents at tab 2. Sorry.

9 [10:25 a.m.]

10 It's at tab 2 in the Moose River volume
11 of documents, and it is about in the middle. They are
12 not tabbed. The document precis indicates, date:
13 1978, title: Hydraulic Expansion Program, and it is
14 Exhibit 379.

15 A. Yes, I have it.

16 Q. And if you turn to page 19 of that
17 document, and there is a series of pages which is
18 headed "Proposed New Hydroelectric Developments,
19 Planned Extensions and Redevelopment", and on page 19
20 it indicates the totals at the bottom, overall total
21 from the identified sites which at that time were 17,
22 and the total potential installed capacity was 5,082
23 megawatts; is that right?

24 A. That is on page 19?

25 Q. Yes.

1 A. Yes, that wasn't a hydraulic plan at
2 the time. That was a list of sites.

3 Q. Well, let's take it as what it's
4 described as in the document, which is Proposed New
5 Hydroelectric Developments, Planned Extensions and
6 Redevelopment.

7 A. The proposal at that time was a
8 program of 2,000 megawatts.

9 Q. Well, are you saying that the heading
10 is inaccurate, that they weren't proposed new
11 hydroelectric developments, planned extensions and
12 redevelopment as the Hydro document says?

13 It says, Overall Total From Identified
14 Sites, New Developments, Installed Capacity, 2,038;
15 Planned Extensions, 2,468; Plant Redevelopments, 576.
16 Total 5,082.

17 A. I would refer you to page 2 of the
18 same exhibit, and I will read the first two paragraphs.

19 The 17 hydroelectric projects are made
20 up of ten new developments with the
21 remainder being either extensions or
22 redevelopments of present stations. (list
23 attached) Most of them are in the more
24 remote parts of northeastern and
25 northwestern Ontario.

1 Going to the second paragraph:

2 If all approvals are given, the
3 earliest construction on any of the sites
4 could begin in 1982 with the final work
5 on the last one to be completed in 1994.
6 Peak capacity of the new developments
7 during high water periods is about 2
8 million kilowatts - which is the same as
9 2,000 megawatts - with an average annual
10 output of 523,000 kilowatts.

11 So the program that was being anticipated
12 at that time, being planned at that time was 2,000
13 megawatts by about 1994.

14 Q. That was the hydroelectric expansion
15 plan at that time that was actually being approved, but
16 the actual proposed new developments, extension and
17 redevelopments, are they not accurately summarized as
18 5,082 kilowatts?

19 A. I believe that is a measure of
20 potential, but I would categorize the 2,000 megawatts
21 that was in the actual list of sites that made up the
22 2,000 megawatts as being more closely comparable to
23 what we are currently calling attainable potential.

24 Q. I see. So we can't take the heading
25 then as strictly accurate, is that what you are saying?

1 A. I'm well aware that the plan at that
2 time was 2,000 megawatts.

3 Q. Okay. Let's move on then, maybe this
4 Hydro document is a little more helpful.

5 The first document in that Northwatch
6 brief of documents is figure 1 from the hydraulic plan,
7 which is Exhibit 28. This one is headed "Hydraulic
8 Potential in Ontario," and at the bottom it says:
9 Total practical potential for development by Ontario
10 Hydro, 3,591 megawatts.

11 MS. BASU ROY: A. That figure of 3,591
12 is the number that appeared in Exhibit 28 as the
13 practical potential, that's correct, but that actually
14 includes two of the exclusionary criteria that, I
15 guess, Hydro has indicated that that potential should
16 not be included in our attainable potential, but two of
17 those categories potentially could have some of their
18 potential included later on in the future.

19 Q. Okay, we will come to that.

20 December 1989, Hydro's view of the total
21 practical potential for development by Ontario Hydro is
22 3,591 megawatts; is that right?

23 A. That's correct.

24 Q. And is that then the figure that you
25 would compare in 1978, the 5,082? Are those in the

1 same category as the 5,082 in 1978 also as perceived at
2 that time the total practical potential for development
3 by Ontario Hydro?

4 A. We view that as being comparable to
5 the 2,000 megawatts--

6 Q. Which?

7 A. --in 1978. The 3,591 would be
8 comparable to the 2,000 megawatts in the 1978 program.

9 Q. So, what is the difference then
10 between the 2,000 megawatts in 1978 and the 5,082?

11 A. I'm not really sure without examining
12 the document.

13 Q. Would you have a look at it?

14 I can put my question another way. If
15 the 5,082 in '78 is not the total practical potential
16 for development by Ontario Hydro as perceived in 1978,
17 what is it?

18 MR. SNELSON: A. It's an inventory of
19 potential sites, Mr. Kelsey.

20 We are having difficulty exactly aligning
21 it with any of our current categories. But it is
22 partway through an exclusionary process and it's a list
23 of sites that the people putting the report together
24 felt had some potential to be developed over a longer
25 period of time. But I believe that the people who

1 wrote it would have known that a lot of the information
2 on some of the sites was very preliminary.

3 Q. It may well be. And I am not talking
4 about the present, I am talking about comparing 1978
5 with 1989 and I am asking you whether or not the two
6 figures - and I assume that you are trying to achieve
7 some kind of consistency - whether the two figures, the
8 one of 5,082 in 1978 and the other within of 3,591 in
9 1989 are comparable and that they describe basically
10 the same thing?

11 A. I think the point is that in this
12 particular respect we haven't striven to be totally
13 consistent in our definitions and consequently the
14 numbers are not directly comparable.

15 Q. So, are you saying then that 1978,
16 5,082 was not intended to be the "total practical
17 potential for development by Ontario Hydro"?

18 A. They were a list of sites that we
19 believe at that time - this is going back a long way -
20 that people at that time felt warranted further
21 investigation.

22 Q. Can you point out to me where in that
23 document it says that, as opposed to proposed new
24 hydroelectric developments, planned extensions and
25 redevelopment?

1 A. No, I can't point that out to you.

2 Maybe if I read the whole document I could, but I am
3 working here from, to some degree from memory and also
4 what is in these pages that are here.

5 You will notice the ones once that are
6 indicated with a plus sign are included in the proposed
7 hydraulic generation program and those would be the
8 ones that were considered to have the highest priority
9 for development at that time.

10 Q. They were the 17 that were approved
11 at the time to go ahead?

12 A. There were approved for further
13 studies. That was the only sense in which there were
14 approved.

15 Q. All right. Well, let's move now then
16 to November 1991, and the next document in the
17 Northwatch brief of documents is table 9, Attainable
18 Potential, page 63 of the Hydro's update which was
19 filed at the beginning this panel and it's Exhibit 359.
20 This has the heading Attainable Potential, and then a
21 sub heading Total Attainable Potential, and it compares
22 the 1987 inventory report, and then it has updated
23 information, capacity 1,797 megawatts.

24 Now, is that figure of 1,797 described as
25 total attainable potential the equivalent to the figure

1 in 1989 described as total practical potential for
2 development of Ontario Hydro of 3,591, are those two
3 figures comparables?

4 MS. BASU ROY: A. What you are seeing in
5 table 9 is a total attainable potential that Hydro sees
6 as realistic to include for future plans.

7 The only difference between that total
8 and what you are seeing on figure 1 is the sites which
9 have been excluded for now because of co-planning
10 considerations, and another group of sites which have
11 been excluded because of information and economic
12 considerations.

13 Q. Yes, I am going to get into the
14 reasons for the exclusion. At the moment and perhaps
15 if you could just deal with the question I am asking, I
16 will come to that question. But what I am asking at
17 the moment is just the straightforward question as to
18 whether those two figures are comparable and describe
19 basically the same thing?

20 A. Yes, I guess the answer would be yes.

21 MR. SNELSON: A. I believe that the
22 answer is yes, that they are both the amounts that at
23 their respective times we are relying upon in our
24 25-year plan. In that sense they are comparable.

25 Q. So that if we take - and for the

1 moment bearing in mind your answers - taking the
2 assumption of for 1978 as describing what, to me
3 anyway, in the document it seems to describe, as the
4 proposed developments of 5,082 megawatts, then in 1989
5 we have a figure of 3,591 megawatts, and then in
6 November of 1991, just before the beginning of this
7 panel, we have a reduced figure of 1,797 megawatts,
8 that would seem to indicate to me a gradual reduction
9 in Hydro's view of attainable potential. Would you
10 agree with that?

11 A. Well, as we have indicated, the 5,000
12 megawatt number that you started from we don't believe
13 is comparable to the other two. The other two in the
14 sense that we have indicated are comparable.

15 Q. So is the answer to my question then,
16 confining it as you indicate, that it would appear as
17 if the attainable potential in Hydro's view is
18 diminishing and has diminished?

19 A. No, I believe the attainable
20 potential can increase or diminish.

21 Q. Could you answer my question, Mr.
22 Snelson. I asked not what will happen in the future,
23 but what has happened up until November 1991. And
24 would you not agree with me that from December 1989
25 until November 1991 there has been a reduction in

1 Hydro's view of attainable hydroelectric potential?

2 A. On that time period, yes.

3 [10:40 a.m.]

4 Q. Thank you. And does that not arise
5 because of the expansion in the number of exclusionary
6 criteria, which is the question I put originally?

7 A. Yes, we believe that it is primarily
8 due to the identification of co-planning requirements
9 in the Moose River Basin as an exclusionary criteria.

10 Q. So the answer is yes?

11 A. Yes, with that particular case.

12 Q. I will come to the particular.

13 Would you not agree with me that that
14 particular - let's deal with that one - exclusionary
15 criterion that you have put forward is an environmental
16 consideration in the broad sense, is it not?

17 A. It certainly has environmental and
18 social aspects to it which others on the panel could
19 speak to better than I can.

20 Q. So when I asked my question
21 initially, that with the approach that you adopt of an
22 exclusionary one in a climate of expanding awareness of
23 environmental considerations, the tendency will be for
24 the range of attainable potential to decrease and that
25 is apparently what has happened?

1 A. It has certainly decreased in the
2 last few years, but it is also possible that it could
3 increase. This is not a necessarily continuing
4 process.

5 Q. I am not asking about a continuing
6 process. I am asking about what has happened to date,
7 and then I will deal with what might happen in the
8 future. I will come to that.

9 A. To date, since '89 there has been one
10 additional exclusionary category which has reduced the
11 attainable potential.

12 Q. Would you agree with me that another
13 way of categorizing criteria is in terms of, and I
14 think you have already adverted to is, absolute and
15 relative? In other words, taking your exclusionary
16 criteria, you can apply them in a planning methodology
17 context either in an absolute way or a relative way;
18 absolute in the sense that if a particular site fits
19 within the exclusion it is absolutely excluded? Or, if
20 you have relative criteria, it is a factor possibly
21 leading towards its exclusion but it may be balanced
22 with other matters; therefore, it is only relative or
23 partial? Would you agree with me that that is an
24 acceptable classification of planning methodology
25 criteria?

1 A. I believe there may be such a
2 distinction. I am not sure how I would put various
3 exclusions into those categories.

4 Q. No, I am not asking for you to jump
5 ahead, Mr. Snelson. I am just asking you as a planner
6 whether that is an acceptable and understood
7 classification of criteria in a planning process: that
8 they are either relative or absolute? They are either
9 applied absolutely and exclude automatically or they
10 are applied in a relative balancing sense?

11 A. I believe that in many planning
12 processes a lot of issues have different shades between
13 black and white, and so it may be possible to make such
14 a distinction but I am not sure that it's possible.

15 Q. It is not possible to make the
16 distinction between absolute and relative in this
17 context?

18 A. I understand theoretically the
19 distinction --

20 Q. Well, that's what we are talking
21 about at the moment. We are talking about planning
22 theory. You are familiar with planning theory, are
23 you?

24 A. I am more familiar with planning
25 practice.

1 Q. Not the theory?

2 A. There are many aspects of theory that
3 affect planning, but I am not sure exactly what aspect
4 you are referring to.

5 Q. Who does the planning theory then and
6 methodology in Ontario Hydro? Maybe I am asking the
7 questions to the wrong person.

8 A. There are theories that are
9 applicable to various aspects of planning that are --

10 Q. Who?

11 A. --developed -- I am answering your
12 question Mr. Kelsey. That are developed by usually the
13 groups who are responsible for applying that particular
14 aspect of planning.

15 Q. So what's the answer to my question?
16 Who are the planning theorists? Do we have somebody
17 who understands basic planning methodology on the
18 panel?

19 A. There are people who understand
20 planning methodology as it applies to their own areas
21 of planning.

22 Q. Is there anyone on this panel who is
23 qualified to talk about planning theory before we get
24 into the practice?

25 A. I believe all of us are qualified to

1 talk about planning theory as it affects our own
2 particular areas of expertise.

3 Q. I see. But you are telling me that
4 you have not heard of this classification of criteria,
5 exclusionary or inclusionary, into absolute and
6 relative?

7 A. I haven't made that distinction
8 before.

9 Q. Well, perhaps you would now turn your
10 mind to it in the context of the exclusionary criteria
11 that you advance on behalf of Hydro to arrive at the
12 1,797 megawatts.

13 I will ask a general question first and
14 then we will examine it. What I am suggesting to you
15 is that the criteria, the methodology that Hydro has
16 developed so far is adopting absolute exclusionary
17 criteria, exclusionary in the sense that they exclude
18 possibilities; absolute in the sense that if a site
19 comes within that criterion, it is out regardless of
20 other considerations?

21 A. They were applied in that way to
22 determine the attainable potential, but we did
23 understand, and we alluded to it in our direct
24 evidence, that some of the exclusionary criteria are
25 harder and therefore in your terminology tend towards

1 the relative rather than the absolute than some of the
2 other exclusion criteria.

3 Q. Let's deal with them.

4 Let's deal first of all with small hydro.
5 And what is small hydro? That's the first of Hydro's
6 exclusions, isn't it?

7 MS. BASU ROY: A. That first
8 exclusionary category was identified as being any
9 potential site having less than 5 megawatts of
10 capacity.

11 Q. And if any site was potentially less
12 than 5 megawatts, was it excluded absolutely?

13 A. That's correct.

14 Q. So that's an absolute exclusion?

15 MR. SNELSON: A. It was applied as an
16 absolute exclusion. We do recognize that there is the
17 possibility that Ontario Hydro may develop some very
18 small sites, but we don't expect it to be a large
19 contribution to potential.

20 Q. Can we deal with, rather than
21 projecting possibilities for the moment into the
22 future, with what actually has happened. And that
23 exclusion of small hydro, has that not been applied in
24 an absolute way to exclude all sites with a potential
25 of less than 5 megawatts?

1 A. It was applied in an absolute way in
2 determining the attainable potential. We did say in
3 our direct evidence that some of the sites that were
4 excluded in determining attainable potential due to
5 various factors may in fact be included at some future
6 time in attainable potential.

7 Q. Mr. Snelson, what I asked was whether
8 the exclusion has been applied to date so as to
9 absolutely exclude all 5-megawatt site?

10 THE CHAIRMAN: I think he answered the
11 question, Mr. Kelsey.

12 MR. SNELSON: The specific answer is no.
13 I have given my qualifications, but no.

14 MR. KELSEY: Q. All right. What --

15 THE CHAIRMAN: That's not the answer I
16 thought he gave, so perhaps I was wrong. (Laughter)

17 MR. KELSEY: Two answers are sometimes
18 better than one. It covers all the bases.

19 MR. SNELSON: I am being very particular
20 here. It was applied as a total exclusion but we do
21 recognize the there may be sites that are less than 5
22 megawatts that are developed by Ontario Hydro. And Mr.
23 Flook points out to me for instance Lake Gibson that we
24 are developing is of the order of 5 megawatts.

25 MR. KELSEY: Q. It's 5 megawatts, not

1 less than 5 megawatts. But apart from Lake Gibson,
2 which is headed in the attainable potential as 5
3 megawatts, are there any sites listed in Table 9,
4 "Attainable Potential", which following the application
5 of your exclusionary criteria are less than 5
6 megawatts?

7 MR. SNELSON: A. No such sites are
8 listed.

9 Q. Thank you. The criteria for arriving
10 at this exclusion of small hydro, would you agree that
11 the considerations that went into that are economic and
12 technical?

13 A. I believe there are other factors as
14 well.

15 Q. What?

16 A. Organization.

17 Q. Whose organization?

18 A. The factor surrounding the small
19 hydroelectric sites is that we expect that non-utility
20 generators will be better organized and structured to
21 develop that sort of potential.

22 Q. So the third element then is
23 organizational structure?

24 A. Yes.

25 Q. The next exclusion: NUGs. Was that

1 applied absolutely?

2 MS. BASU ROY: A. To be correct, the
3 next exclusion was not NUGs. It was large sites which
4 have been released to non-utility generators for large
5 sites.

6 Q. Was that applied absolutely?

7 MR. SNELSON: A. Yes, that tends very
8 strongly towards the absolute sense in that other
9 people have been assigned the water rights for those
10 sites; and while that remains in force, Ontario Hydro
11 is unable to develop those sites.

12 Q. Well, again, perhaps the best way to
13 get at a clear answer is: Are there any sites in this
14 second category that are in Table 9, "Attainable
15 Potential"?

16 MS. BASU ROY: A. No.

17 Q. So it has been applied absolutely?

18 A. Yes.

19 Q. And the reason for the thinking
20 behind that exclusion, is that economic, economic
21 considerations?

22 MR. SNELSON: A. No, I believe that's a
23 jurisdictional consideration with regard to the release
24 of the water rights by the Ministry of Natural
25 Resources, for whatever reasons they did that.

1 Q. It is a policy decision?

2 A. I wouldn't like to comment on their
3 reasons.

4 Q. The third exclusion: Parkland. Was
5 that applied absolutely?

6 MS. BASU ROY: A. The next exclusion was
7 not for all parkland. It was for specifically nine
8 sites that were affected by the 1988 Parks policy
9 announcement.

10 Q. Aren't they parkland?

11 A. They are all in parkland, yes.

12 Q. Pardon?

13 A. Yes.

14 I am just clarifying your labelling of
15 that exclusionary criteria.

16 Q. I have got third exclusion:
17 parkland. Is that not right?

18 A. Yes. But it is not all sites in
19 parkland. It is just sites that were affected by the
20 1988 MNR policy.

21 Q. All right. Thank you.

22 Was that applied absolutely?

23 A. To the extent that it dealt with nine
24 specific sites, yes.

25 Q. Nine? I thought there were over

1 fifty in the 1988 announcement.

2 A. Not all parklands that were announced
3 impacted on our hydraulic plans. They --

4 Q. Let's put it the other way around
5 then. Are there any sites in Table 9, "Attainable
6 Potential" that are in parkland?

7 A. No.

8 Q. So hasn't the parkland exclusion,
9 however large it has been, been applied absolutely?

10 A. Yes, I would say so.

11 Q. And if one can classify or categorize
12 the reason behind this exclusion, that would be
13 strictly environmental, would it not?

14 THE CHAIRMAN: My recollection is that
15 parklands are excluded under two of the exclusionary
16 criteria. One, this particular one, which relates to a
17 special order made by another ministry; and two, in
18 other category - I forget the number - there are some
19 parklands involved in that. So there are two.
20 Parklands go out under two different exclusionary
21 criteria.

22 MR. KELSEY: Q. That's right. My
23 understanding was that, first of all, you have the
24 exclusion of 260 parks in the province and then you
25 have the exclusion of the specific number --

1 MS. BASU ROY: A. The impacts --

2 [10:55 a.m.]

3 Q. Excuse me. The specific number of
4 parks excluded under 1988 announcement; is that right?

5 A. For the third exclusionary criteria.

6 Q. Yes. So the two groups.

7 A. Yes, the parkland policy has impacted
8 more than two categories but --

9 Q. Well, either they are two categories
10 or they are subdivisions of one. I was just trying to
11 speed things up describing the exclusion as parkland
12 generally, then there are the two basic classes that
13 fit into that parkland exclusion.

14 A. Yes. I think the problem is coming
15 because we don't have one particular category that
16 deals exclusively with parkland; it's covered by
17 several exclusionary criteria.

18 Q. And are they not absolutely applied?

19 A. The parkland, the fact that
20 hydroelectric development is prohibited within
21 provincial parkland is an absolute.

22 Q. And the considerations are totally
23 environmental?

24 A. It's a government decision as to why
25 the parks have been created.

1 Q. I will come to that. Is it not your
2 understanding that the reasons are environmental?

3 A. We are abiding by government policy.

4 Q. Is it not your understanding that
5 underlying government policy are environmental
6 considerations?

7 MR. SNELSON: A. I believe that it is
8 most likely, and we should not be commenting on reasons
9 for government decisions, but it's most likely that it
10 is some combination of environmental and social
11 considerations.

12 Q. Well, the social considerations in
13 the context of this hearing, they are included in
14 environmental, social impacts?

15 A. I was just trying to be clear, in the
16 context of this hearing economics is included in
17 environmental.

18 Q. The next exclusion, northern rivers.

19 MS. BASU ROY: A. Yes.

20 Q. The reasoning behind this exclusion
21 would be economic, first of all?

22 A. Partially, yes.

23 Q. And what else?

24 A. There is also --

25 Q. Could you speak up a little? I am

1 having a little difficulty hearing you.

2 A. Sorry. There was also reasons given
3 for parkland, a number of the potential on the northern
4 rivers was identified as being located within
5 provincial parkland.

6 Q. So they have got an overlapping of
7 considerations.

8 A. And as well there was major flooding,
9 was cited as a third reason.

10 Q. So you have got economic?

11 A. Economic.

12 Q. Environmental?

13 A. Environmental and parkland.

14 Q. And parkland. And I would suggest
15 considerations of native interests.

16 A. That would be captured through the
17 flooding considerations.

18 Q. Well, the native interests are a
19 little broader than flooding, aren't they?

20 A. Yes.

21 Q. But when you speak of flooding you
22 are speaking of the area that would necessarily result
23 because of the low lying topography, the huge area that
24 would have to be flooded. That's the physical, but
25 there is the other broader classification of native

1 concerns going beyond that, too?

2 A. That's correct.

3 Q. So we have got a combination of
4 considerations there?

5 A. Yes.

6 Q. And the native element in the
7 exclusion of northern rivers, do you know when that was
8 considered or applied as a consideration?

9 Maybe I can help you. Can I direct you
10 to Exhibit 374, which is a hydroelectric generation
11 development plan for Ontario, and it's the first
12 document in the Moose River brief. It comes before tab
13 1, right at the beginning.

14 Do you have it?

15 THE CHAIRMAN: This in your brief of
16 documents?

17 MR. KELSEY: It's in the Moose River
18 documents and it's the first document. It actually
19 comes before tab 1. I think actually -- if I can refer
20 you to page, I think it is 88, of that exhibit, at the
21 bottom, bottom of page 88.

22 THE CHAIRMAN: I am afraid I am lost.
23 What exhibit number is it?

24 MR. KELSEY: Sorry, sir. It's 374.

25 THE CHAIRMAN: 374?

1 MR. KELSEY: Yes. It was made an exhibit
2 by Ms. Kleer, and it is the first document in her brief
3 of documents.

4 THE CHAIRMAN: Page?

5 MR. KELSEY: 88.

6 Q. The last sentence on page 88 reads:

7 In keeping with the requests of Grand
8 Council Treaty #9 the provincial
9 government in 1976 directed Ontario Hydro
10 not to proceed with any plans to develop
11 the Albany River's potential.

12 So it would appear that as far as back as
13 1976 native concerns as reflected by the government
14 were part of the decision to - and the Albany River
15 being part of the northern rivers, we are understood on
16 that - that was part of the decision to exclude at
17 least the Albany River, one of the northern rivers, and
18 to include that, that's part of the basis for that
19 solution; would you agree?

20 MR. SNELSON: A. Clearly we had that
21 government direction at that time.

22 Q. Well, can we conclude then from that
23 that native considerations were part of the reasons for
24 exclusion at least of one of the northern rivers?

25 A. Native concerns about the northern

1 rivers were a factor in this hydraulic planning through
2 the 1970s and 1980s.

3 Q. Thanks.

4 The next exclusion, No. 5, other
5 environmental, technical and economic exclusions. The
6 environmental exclusions that are contained within that
7 exclusion, one of them, it would appear, is parkland.
8 What other environmental considerations are included in
9 that one?

10 MS. BASU ROY: A. Just give me one
11 minute, please.

12 Q. Yes. It may be of assistance, page
13 32 in Exhibit 362, hydraulic plan. It has a heading
14 Reason for Exclusion, but it doesn't actually indicate,
15 not to me anyway, very clearly what they are.

16 A. I am sorry, what was your question
17 again?

18 Q. The question was, it's headed other
19 environmental, et cetera, exclusions, what are the
20 particular environmental reasons contained within those
21 exclusions?

22 A. Specifically I believe I identified
23 parkland, there was the mention of an international
24 boundary and landmark, and remoteness of sites.

25 Q. The remoteness, is that regarded as

1 environmental rather than economic?

2 A. It has some environmental
3 connotations in that some of the rivers would be
4 considered pristine.

5 Q. So some overlap there with the
6 principles embodied in the northern rivers exclusion?

7 A. To some extent, yes.

8 Q. Any others?

9 A. That's all that was specifically
10 identified.

11 Q. Okay. And would you agree with me
12 that the northern rivers exclusion and exclusion No. 5,
13 they were also applied absolutely?

14 DR. CONNELL: I have some trouble
15 understanding that question, Mr. Kelsey. There are
16 obviously a multitude of northern rivers, they were not
17 all excluded.

18 MR. KELSEY: Well, it's a pretty clear
19 category.

20 Exclusion 4 consists solely of the
21 Albany, the Attiwapiskat, the Severn and the Winisk.

22 It's on page 31 of the hydraulic plan,
23 and the total is shown has 5,000 total megawatts.

24 DR. CONNELL: I think when you name the
25 rivers it really becomes tautological, doesn't is it.

1 MR. KELSEY: Pardon.

2 DR. CONNELL: I say when you name the
3 rivers it really becomes tautological.

4 MR. KELSEY: Yes, the exclusion is headed
5 four northern rivers. So in terms of exclusion, yes.
6 I passed over it, I didn't ask that question
7 specifically at the time. I am more concerned with
8 exclusion five.

9 Q. Does that apply absolutely?

10 MS. BASU ROY: A. If your question is,
11 is any of this potential that's been excluded here
12 identified in the attainable potential, the answer is
13 no.

14 Q. Can you give me an example of an
15 economic exclusion in exclusion 5?

16 A. Some of the sites that were excluded
17 for remoteness, they would be prohibitively expensive
18 to tie into the BES.

19 Q. Okay. Any others?

20 A. I guess that's all that comes to mind
21 right now.

22 Q. And exclusion 6 is just headed Other
23 Economic/Information Exclusions. Can you tell me what
24 economic considerations went into that exclusion?

25 A. I think we identified 17 sites that

1 were excluded in this category for lack of information
2 or economic considerations.

3 Q. Yes. What are the economic
4 considerations in that exclusion?

5 A. Do you want specific sites
6 identified?

7 Q. No, I just want to know what are the
8 economic criteria that were applied that resulted in
9 the exclusion of those particular sites?

10 A. Well, when we analyzed the costs and
11 the benefits attributable to developing some of the
12 sites, they were judged to be prohibitively too
13 uneconomic to proceed.

14 Q. Is that strictly cost/benefit ratio,
15 is it?

16 A. In the cases of some sites, yes.

17 Q. And was there a specific cost/benefit
18 ratio that was regarded as decisive?

19 A. No, it was judgmental.

20 Q. Was there anyone that was taken as a
21 guide like one?

22 A. One is a benchmark, yes.

23 Q. The presumption would be, again
24 presumably anyone with a cost/benefit ratio above one.
25 Was one taken as the basic guide?

1 A. It was taken as a guide. But if we
2 did a cost/benefit analysis and we had a site with 1.1
3 it wouldn't be necessary excluded, but if you had 3 I
4 think we would.

5 Q. So, the sum relativity then in this
6 exclusion in that there is not a precise figure that is
7 applied absolutely but a figure is come up and some
8 judgment is made in the particular context as to
9 whether it's acceptable or not?

10 A. Of course, recognizing that we are
11 using very preliminary cost figures.

12 Q. So cost/benefit ratio. Any other
13 economic consideration?

14 A. In the case of some of the sites, the
15 energy potential from the extensions was judged to be
16 significantly low enough to exclude it.

17 Q. Low output?

18 A. Low output. On the energy side.

19 Q. Right.

20 And making allowance for what you say, in
21 the cost/benefit ratio there is no precise figure, but
22 a judgment is made as to basic unacceptability in the
23 context, but once that decision has been arrived at as
24 to unacceptability, having applied your criteria, was
25 that exclusion then applied absolutely in that there

1 would be no counter balancing favourable considering
2 that would be sufficient to include it in the plan? Do
3 you understand my question? That once you have arrived
4 at your conclusion of the cost/benefit ratio
5 acceptability in relation to a particular site, that
6 site is out?

7 A. Well, the site was evaluated on
8 several criteria and the economics was one factor which
9 would give us low confidence for including the
10 potential from that site in the attainable potential.

11 Q. I see. And the fact that it is
12 headed other economic information exclusions, doesn't
13 that indicate that the economic factor was in the end
14 decisive?

15 A. Not necessarily. I think the way you
16 have to read this exclusion, it's really other, and
17 then in brackets --

18 Q. It's miscellaneous --

19 A. Well, economic and lack of sufficient
20 information.

21 Q. All right. And the seventh exclusion
22 relates to the suspension of work, and at the moment
23 it's an exclusion. I understand that it is a
24 suspension pending a co-planning agreement?

25 A. That's correct.

1 Q. It's the seventh one?

2 A. That's correct.

3 Q. And would you agree with me at the
4 present time that that is an absolute exclusion?

5 A. As of today, yes.

6 Q. That if there is no co-planning
7 agreement reached with the concerned native interests,
8 concerned with the Abitibi, there will be no
9 development of the Abitibi?

10 A. That's what Hydro has said.

11 Q. Fine. And it's headed "Suspended
12 Planning, Moose River Basin," would it be more accurate
13 to say that it is a suspension of the Abitibi River?

14 A. No.

15 Q. It's not a suspension of the whole
16 Moose River Basin, is it?

17 A. No, that's correct. But we have
18 other sites that are still...

19 Q. Renison, Blacksmith Rapids, Sand and
20 Allan Rapids and Cypress Falls?

21 A. Are excluded.

22 Q. Yes.

23 A. But there are sites on the Abitibi,
24 the Mattagami and the Moose that fall within that
25 co-planning announcement.

1 Q. On the Mattagami?

2 A. Cypress Falls.

3 Q. But not the other sites on the

4 Mattagami

5 A. Can you be more specific? Are you
6 referring to Smoky Falls and --

7 Q. Harmon?

8 A. Harmon, that's right.

9 Q. Kipling?

10 A. They are not included withing the
11 co-planning.

12 Q. They are in the included in here?

13 A. That's correct.

14 Q. So, it's part of the Moose River
15 Basin?

16 A. Yes.

17 Q. All right. Does that then exhaust
18 the -- before I go to that. The suspended planning, is
19 the basis for that concern for native interests?

20 MS. QUINN: A. Maybe I can help a bit in
21 that regard.

22 Yes, it is. Certainly there is a desire
23 to respect their indications that they don't want to
24 cooperate in planning activities at this stage. And
25 there has been an agreement signed between the First

1 Nations and the provincial government that suggests
2 that there will be government to government treatment,
3 First Nations are governments. And we understand now
4 that a provincial negotiator has been a appointed
5 specifically to look into matters in the Moose River
6 Basin, and that negotiator/facilitator/mediator,
7 whatever label one would want to use, is an employee of
8 the provincial government. And so we are basically on
9 hold and respecting the relationship between the First
10 Nations and the government.

11 Q. Yes. And leaving aside for the
12 moment what is actually happening, what I am concerned
13 about is the planning process. It might be of
14 assistance to refer to the transcript, an extract of
15 which is contained in Northwatch's file documents.
16 It's the transcript for September 24th, 1991, starting
17 at page 11183.

18 [11:16 a.m.]

19 And there was a statement made by Hydro
20 counsel, Mr. Campbell, of the Hydro decision to suspend
21 operations in part of the Moose River Basin. And the
22 reason given, and perhaps I can ask you, Ms. Quinn,
23 whether this accurately represents your understanding
24 of the reason.

25 Starting at line 16 on page 11183, it

1 says:

2 "The changing relationship between the
3 Ontario government and the First Nations
4 in Ontario, as evidenced by the statement
5 of political relationship signed in
6 August of this year, and the changing
7 relationship between Hydro and the
8 Aboriginal groups, have been important
9 factors in this evolution.

10 "The Board also will be aware of
11 recent organizational changes at Hydro
12 which place a higher level of priority
13 and commitment on Aboriginal and Northern
14 affairs. All of this, together with the
15 need for the active involvement of
16 Aboriginal groups affected, has led to a
17 re-examination of Hydro's approach to
18 planning in relation to the Moose River
19 Basin."

20 Then the announcement is made of the
21 suspension of all planning until a co-planning process
22 is worked out.

23 Is that your understanding of the reasons
24 for the decision?

25 A. Yes, it is.

1 Q. And would that not tend to support
2 what I put earlier, which was that when you have
3 exclusionary criteria in a context of changing
4 environmental considerations and changing
5 relationships, the tendency will be for the range of
6 acceptable sites or acceptable megawatts to decrease?

7 A. In general I agree. But because
8 relationships are changing, I think you have to leave
9 the door open somewhat.

10 Q. Isn't the door left open completely--

11 A. No, it's not.

12 Q. --for the future as well, future
13 changes as well?

14 A. We've really called all of this
15 potential attainable and we believe that that is an
16 appropriate way to look at it, that we have labelled
17 this reference to the Moose River Basin as exclusionary
18 criterion that has to do with. Right now the outlook
19 is that it is really not attainable. But relationships
20 can change and there is a provincial negotiator
21 appointed, so that suggests the possibility for change.
22 But at this point there is no evidence that we can work
23 with.

24 Q. The exclusionary principles, the
25 seven of them, so far, are those completely internally

1 generated by Hydro? You have seen the word "generated"
2 in there -- produced.

3 MR. SNELSON: A. As stated as a set of
4 principles they are internally generated. As you have
5 elicited in our reasons for them, there are many
6 external influences that have been brought to bear upon
7 those.

8 Q. In developing these exclusionary
9 criteria, was there reference to any outside research
10 literature or planning methodology principles?

11 A. No, I don't believe so. I believe we
12 see this as the practical way to get down to what is a
13 reasonable amount to plan on, to rely upon, for
14 planning.

15 Q. Now has there not also been change in
16 relation to Patten Post? Has that not also been
17 suspended?

18 MR. FLOOK: A. I don't know that you
19 could characterize it as being suspended. I just don't
20 think it was ever started.

21 Q. Or postponed?

22 A. Postponed, yes.

23 Q. It has been postponed?

24 A. I am trying to think of an
25 appropriate word. But it just hasn't started. I don't

1 know that there has been a particular decision to start
2 or stop. It just has not started.

3 Q. Perhaps I can help. The Hydro
4 update, Exhibit 359, and this is document No. 7 in the
5 Northwatch brief of documents, page 10. The first
6 paragraph on page 10 indicates that:

7 "As part of the Elliot Lake Region
8 Economic Development Program, Ontario
9 Hydro was directed by the government in
10 June 1991 to take all reasonable steps to
11 ensure that an Environmental Assessment
12 for the Patten Post/Mississagi River
13 hydroelectric development is completed,
14 reviewed and approved for a station to be
15 in service by the year 2000. Based on
16 this government direction, Ontario Hydro
17 commenced Definition Phase for the Patten
18 Post development in July 1991."

19 Pausing there, the definition phase comes
20 after the concept phase; is that correct?

21 A. That is correct.

22 Q. Continuing with the quotation:

23 "Subsequently, Aboriginal groups in
24 the area passed a resolution against the
25 project. Accordingly, Ontario Hydro has

1 postponed all field work, the public
2 announcement of the Environmental Study,
3 and any meeting with other people within
4 the area. Ontario Hydro has sought
5 direction from the government with
6 respect to the implications of this
7 situation."

8 Would that not indicate that Ontario
9 Hydro started certainly in the definition stage of this
10 project and as a result of their native concerns
11 decided to postpone everything.

12 A. The words in here used the word
13 "postpone". I wouldn't have characterized it as that.
14 We just never got started.

15 MS. QUINN: A. I think there is another
16 difference and that was that Hydro was asked to proceed
17 with this proposal through an Order-in-Council.

18 Q. The difference between what?

19 A. This and other projects that we might
20 initiate under our own wisdom. And we were asked to
21 proceed with this through an Order-in-Council, so we
22 are waiting for government direction.

23 Q. But would you not agree with me that
24 the Patten Post situation has some similarities with
25 the Abitibi River situation in that there has been a

1 cessation of work and planning pending a resolution of
2 native concerns?

3 A. It's actually pending further
4 direction from the government. It's a bit different.

5 Q. Well....

6 A. We don't really know whether the
7 project will stop or not. We are leaving it in the
8 hands of government to tell us what to do at this
9 stage.

10 Q. Well, what you are waiting for is for
11 not government direction as to what to do, but you are
12 waiting certain direction from the government with
13 respect to the implications of this situation so that
14 then Hydro can make its own decision presumably.

15 MR. FLOOK: A. No, I believe we are
16 waiting for government direction. They were directing
17 us to do a job. We started looking at it. The
18 situation came up so we couldn't get started, and we
19 said to the government "Please tell us what to do."

20 Q. And when was that direction received?

21 THE CHAIRMAN: Are you talking about the
22 direction from the government?

23 MR. KELSEY: No, sorry. Yes, you're
24 quite right. The decision sprang from Aboriginal
25 groups passing the resolution. Yes, I'm sorry.

1 Q. Do you know when the passing of the
2 Aboriginal resolution was and the decision consequently
3 made by Hydro to postpone?

4 MR. FLOOK: A. Late September.

5 Q. Of 1991?

6 A. Correct.

7 MR. SNELSON: A. The letter from the
8 North Shore Council was September 26th.

9 Q. September 26th?

10 A. Yes.

11 Q. That was two days after the
12 announcement in relation to the Abitibi River, at least
13 the announcement at this hearing?

14 A. Clearly September 26th is two days
15 after September 24th. The letter does refer to a
16 meeting of the Tribal Council on September 18th.

17 Q. And that was approximately ten days
18 after the site visit to Moosonee and the Moose River
19 Basin by this Board and participants therein. Is that
20 right?

21 A. That was early September. I don't
22 know the precise dates.

23 Q. So would you agree with me that there
24 has been, even in the last few months and possibly
25 still going on, changes of attitude by Ontario Hydro

1 resulting in a gradual decrease of potential sites
2 resulting from native concerns?

3 MS. QUINN: A. Yes. And if I can help
4 characterize that a little more. What we understand
5 this is related to -- and Mr. Campbell's submissions
6 before this panel refer to it as the desire of the
7 First Nations to speak directly with the government on
8 certain matters. And what they have said is that at
9 some point in time, they may well want to speak with
10 Ontario Hydro but initially they want to speak directly
11 to the government.

12 Q. And Hydro is respecting that?

13 A. Yes, that's correct.

14 DR. CONNELL: Excuse me, Mr. Kelsey.

15 Just to clarify. Mr. Kelsey used the
16 word "gradual". Is that accurate or would say it was
17 abrupt?

18 MS. QUINN: I think it has
19 characteristics of both and in the latter case we have
20 been speaking of it was quite abrupt.

21 MR. KELSEY: Q. Well, the reason I refer
22 to it as gradual is that the first indication that we
23 have is of the Albany being excluded in 1976. In other
24 words, this is not completely new. It is probably
25 accelerating but.... Would that be correct?

1 MS. QUINN: A. Yes. I think your point
2 is correct and I think Dr. Connell's point is correct.
3 It really depends on what particular river you are
4 referring to.

5 MR. SNELSON: A. I think it would be
6 premature to refer to Patten Post as having been
7 excluded from further development.

8 The situation is that Ontario Hydro wrote
9 to the government on October 11, 1991, asking for
10 direction in this regard. And as I understand it, we
11 haven't yet received that direction. We do have
12 government ministers still talking in glowing terms
13 about the project. And Mr. Wildman wrote letters in
14 which with respect to the Mississagi River, he talks:

15 With regard to your last question, I
16 do think this dam is good for Ontario
17 beyond the short-term jobs. First,
18 Ontario needs the energy generation and
19 development of the province's water power
20 resources provides a renewable source of
21 energy. Secondly, while the construction
22 jobs would be relative short lived, there
23 is a lasting benefit to the region in
24 terms of retraining and skills
25 development in terms of more diversified

1 and therefore stable economy. All these
2 issues will be discussed and reviewed in
3 a public manner during the Environmental
4 Assessment process.

5 So that letter was received by us on
6 November 13, 1991. So we still have government
7 ministers talking in glowing terms about the project.
8 So we are waiting to see what specific direction we
9 will receive.

10 Q. I wasn't actually talking about
11 glowing terms. What I was asking about was whether it
12 would appear that native considerations have led to
13 suspension, a postponement of projects that were
14 otherwise and previously acceptable to Ontario Hydro.
15 Would that be correct?

16 A. It's certainly clear this project is
17 currently postponed for those reasons.

18 MR. KELSEY: Thank you.

19 Mr. Chairman, I am now going to move into
20 positive criteria. This might be a good opportunity
21 for a break.

22 THE CHAIRMAN: We will take the morning
23 break.

24 THE REGISTRAR: Please come to order.
25 This hearing will recess for 15 minutes.

1 ---Recess at 11:30 a.m.

2 ---On resuming at 11:51 a.m.

3 THE REGISTRAR: This hearing is again in
4 session. Be seated, please.

5 THE CHAIRMAN: Mr. Kelsey.

6 MR. KELSEY: Q. I am going to move now
7 to inclusionary or positive criteria. And Mr. Snelson,
8 in line with the questions I was asking earlier, would
9 you agree that inclusionary or positive criteria could
10 also be applied relatively or absolutely in that if you
11 looked at our criterion and said, Well, this is a good
12 thing. It may result in the good thing being put in
13 regardless of anything else or, well, it's a good
14 thing, it's a factor, but there may be others. One
15 absolute, the other relative.

16 MR. SNELSON: A. In theory, yes. I am
17 not sure that I can identify specific absolute things
18 because so many issues have shades of gray associated
19 with them.

20 Q. At the moment I am talking about
21 theory or principles. And I assume that you were aware
22 and have been aware over the many years that you have
23 been involved in your planning process that there are
24 theoretical planning principles?

25 THE CHAIRMAN: I think we went over that

1 a little earlier.

2 MR. KELSEY: We did.

3 Q. One possible inclusionary criterion
4 that has been referred to, cost/benefit ratio, one
5 possible positive approach would be to establish a
6 desirable cost/benefit ratio and to apply that as an
7 inclusionary principle either absolutely or relatively.
8 Would you agree with that? It is one possibility?

9 MR. SNELSON: A. That's a possibility,
10 presuming you could do the calculations. It is not
11 significantly different in my mind to including as an
12 exclusionary criterion things that have cost/benefit
13 ratios that are too high. It's the precise converse,
14 an inclusionary criterion of cost/benefit ratios that
15 are low.

16 THE CHAIRMAN: You are not suggesting
17 that if a certain standard of cost/benefit ratio were
18 to be established that automatically that particular
19 site would be included, are you? That's not what you
20 are saying?

21 MR. KELSEY: No, I am just asking from a
22 theoretical point of view.

23 THE CHAIRMAN: So in that sense it is
24 different from an exclusionary criteria. If something
25 fits in the exclusionary criteria, then either

1 permanently or temporarily it's out of the planning.
2 But just because something meets a certain positive
3 criteria doesn't necessarily mean that that particular
4 site is therefore included?

5 MR. KELSEY: No, that's why I included in
6 the question that it can be applied absolutely or
7 relatively. If a criterion is applied absolutely,
8 obviously it is in. But as you say, if it is applied
9 relatively it is a factor but not decisive.

10 THE CHAIRMAN: I really can't imagine an
11 absolute inclusionary criterion. There may be one, but
12 I can't think of one. Because in the planning process
13 every site is subject to a site-specific assessment.

14 MR. KELSEY: Well, I would like to
15 explore that because, as I have already established,
16 some of the exclusionary ones are applied absolutely,
17 so I would like to explore, if I might, at a later
18 stage the possible absolute inclusionary principles
19 too.

20 Q. Another possible one - again probably
21 would be applied relatively but would be a positive
22 inclusionary criterion - would be an upgrading,
23 extension or redevelopment of existing sites, and that
24 would be a positive one in that you would then consider
25 sites that had that positive attribute. Would you

1 agree with that?

2 MR. SNELSON: A. Yes. And we view that
3 as a positive benefit to certain sites.

4 Q. Now moving a little beyond those. In
5 the State of the Environment Report, which Hydro has
6 put out and reference has been made to them, as you are
7 aware, in past panels, the one starting in 1989 and
8 then in 1990, Hydro states its adherence to the
9 principles of sustainable development. Do you agree
10 with that?

11 A. In general, yes. I don't recall the
12 specific wording of that statement.

13 Q. I think also it was indicated and
14 perhaps you can confirm this that Hydro, this being a
15 relatively new concept for Hydro, is in the process of
16 working out in some detail the principles that would go
17 into its understanding of sustainable development.

18 MR. MCCORMICK: A. Yes, I think that was
19 indicated in Judy Ryan's testimony in Panel 2.

20 Q. Has any consideration yet been given
21 by Hydro to the development of positive criteria in
22 this context flowing from sustainable development which
23 might lead to a conclusion of desirable potential sites
24 from a positive point of view?

25 MR. SNELSON: A. Specifically with

1 regard to individual sites, no. I do believe that our
2 discussion with regard to renewable energy and our
3 general preference for redevelopments and projects that
4 on are river systems that are already regulated tends
5 to be in the direction of sustainable development, but
6 I don't think we have a specific criterion in that
7 regard.

8 [12:00 p.m.]

9 Q. One possible - and this has been
10 adverted to and I don't want to spend too much time and
11 and detail on this if I can help it - but one positive
12 planning criterion that has been referred to already in
13 cross-examination is planning on a river basin system.
14 Do you recall that?

15 A. Yes.

16 Q. Is that a possible positive
17 criterion?

18 A. We believe it's a factor in the
19 selection of sites that are attainable potential. It's
20 a factor.

21 Q. Well, it may be a factor. What I am
22 asking is, would you categorize it as a possible
23 positive criterion for arriving at desirable sites
24 rather than arriving at undesirable sites?

25 A. I think it may be a positive or

1 negative criterion.

2 Q. Well, if it's put as this, for
3 example, planning should be based on a river system or
4 river basin system approach and systematically
5 eliminate alternatives, would that not be putting it
6 positively; in other words, that you then look for
7 river basin developments?

8 A. That would be putting it positively,
9 yes.

10 Q. So to that extent it can be a
11 positive criterion; is that right?

12 A. It's a positive factor in our
13 evaluations.

14 Q. Are you making a distinction between
15 factor and criterion?

16 A. We believe that we do have positive
17 information with respect to a lot of the sites that are
18 within what we expect to be the attainable potential,
19 and many of the attributes that you are talking about,
20 whether one calls them factors or criteria, we do
21 believe supports our view as to attainable potential.

22 Q. I am just wondering whether you and I
23 are on the same wavelength or whether you are making a
24 distinction between factor and criterion?

25 A. I am talking generally as to the sorts

1 of attributes that we consider to be worthwhile or to
2 affect these sorts of decisions.

3 Q. What I am asking, are you making a
4 distinction between factor and criterion?

5 A. I am not sure whether you have a very
6 specific meaning to criteria. I am talking in a very
7 general sense.

8 Q. When I asked you about criterion you
9 used the word factor and I wonder if you are seeking to
10 make a distinction between the two, so that we
11 understand each other and we are using the same
12 terminology.

13 A. If you could give me your definition
14 of criteria, I could tell you whether it's the same as
15 my definition.

16 Q. What is your definition. What is
17 your definition of criterion?

18 A. Well, we have used criteria as
19 exclusionary criteria to screen out the potential in
20 the province to what we consider to be attainable.

21 As we have discussed, they are more or
22 less absolute. They are absolute in the sense that the
23 numbers have been absolutely subtracted. They are not
24 absolute in the sense that we do realize that
25 circumstances can change and things that are excluded

1 now may not be excluded in the future. So, we have
2 used criteria in that sense.

3 Whether something is practical as a
4 criteria for inclusionary purposes is something that's
5 more difficult to determine.

6 Q. Would you turn to Exhibit 382, which
7 is in the Moose River volume of documents, tab 3,
8 almost at the end of tab 3, just before the beginning
9 of tab 4. Exhibit 382. It's the report by Sears and
10 Patterson on integrated ecosystem in remote Northern
11 Ontario river basins.

12 Would you look at the first page and the
13 first paragraph under paragraph 1, Introduction, the
14 last sentence of that paragraph says:

15 However, a river basin (ecosystem)
16 approach to hydroelectric planning and
17 development requires a new way of
18 thinking.

19 Would you agree with that statement?

20 A. To some degree river basin planning
21 is a new way of thinking.

22 Q. Would you then go to page 2, and a
23 paragraph about two-thirds of the way down that starts
24 with the words "Several years", and the paragraph
25 reads:

1 Several years previous to the
2 submission of the DSP, Ontario Hydro
3 recognized the benefits of an integrated
4 ecosystem based approach to planning and
5 prepared a strategy for hydroelectric
6 generation planning and development.
7 This strategy advocates a river basin
8 approach to planning and development,
9 citing environmental, economic and social
10 benefits. It also provides a means to
11 undertake planning and development on an
12 integrated basis incorporating public and
13 regulatory concerns early in the process
14 and in an orderly and efficient manner.

15 Would you agree with me that that
16 approach, leaving aside for the moment its merits,
17 would be classified as a positive inclusionary
18 approach?

19 A. We view river basin planning as a
20 positive way to approach hydroelectric development.

21 Q. And does that approach not differ
22 from the approach that Ontario Hydro has used in this
23 context being an exclusionary approach.

24 MR. FLOOK: A. I think we are getting
25 into a combination of things here of which there was an

1 exclusionary of a large quantity to get down to
2 something that in the real word is manageable. But
3 within that there is certainly an ordering of
4 principles that particular factor would be used for.

5 Q. Well, let's put it this way, using
6 the exclusionary approach which you have, you may or
7 may not finish up with a river basin?

8 A. That is correct.

9 Q. Right. So you are certainly not
10 starting then on that approach to planning with an
11 initial recognition of the benefits of an integrated
12 ecosystem based approach to planning, are you? Because
13 you don't even know whether you are going to finish up
14 with the basin, so you are certainly not starting with
15 that basic positive principle; are you?

16 MR. McCORMICK: A. I think some
17 clarification is required here. The intent of a paper
18 such as this with any of the sites which may ultimately
19 be picked through an ordering of the attainable
20 potential, all of those sites are within river basins.
21 And what this paper attempts to deal with is once you
22 have identified one or more sites in a river basin, how
23 you go about the planning process for those sites; in
24 other words, you are considering all aspects, all of
25 the potential effects on that basin. If there are

1 potential for multiple developments, the full
2 consideration would be given to all potential
3 developments such that any benefits of doing them in
4 series or, for example, whether access roads wouldn't
5 be first of all determined on the basis of the needs of
6 the first one in the basin, you would look at the
7 long-term developments potential. It may well be that
8 there would be only one site in the basin, and river
9 system planning in this sense here wouldn't apply, but
10 there is the potential in other basins for more than
11 one site.

12 So this does apply to once you have
13 got -- once you are at a site-specific level how you do
14 your planning from that point on in consideration of
15 all other sites on that river system.

16 Q. The first sentence -- you have read
17 the paper now, have you?

18 A. No, but these are colleagues of mine,
19 they come from my department and we speak regularly
20 about the whole concept.

21 Q. You haven't read the paper?

22 A. No, I haven't.

23 Q. The first sentence says, the paper
24 describes the proposed approach for achieving
25 integrated ecosystem based planning of hydroelectric

1 generation development in a remote northern Ontario
2 river basin. Do you see that?

3 A. The paper talks about development and
4 it talks about in a basin, single basin.

5 Q. I don't think I got an answer to my
6 original question, which was, this approach of
7 approaching first a river basin as a positive element
8 is completely inconsistent with Hydro's exclusionary
9 approach, would you agree with that, in that Hydro's
10 approach doesn't necessarily finish up with a river
11 basin?

12 A. Every project that may be identified
13 as part of the attainable potential will be in a river
14 basin. And how one then goes about evaluating the
15 effects of that and undertaking the potential
16 development of those sites or sites in that basin will
17 be done on a river basin basis, a river basin planning
18 approach.

19 Q. Do you agree with me that the Moose
20 River Basin is a river basin for the purpose of this
21 kind of approach?

22 A. Yes.

23 Q. Do you agree with me that they are
24 five basic rivers in the Moose River Basin?

25 A. I can't disagree. I don't know how

1 many rivers there are.

2 Q. All right. I will refer you then to
3 Exhibit 82, which is the first document in the Moose
4 River documents, Tab 5.

5 Sorry, my question, I will reword my
6 question. Do you agree that there are five river
7 basins in the James Bay/Hudson Bay area?

8 That's the first step. I jumped ahead of
9 myself. And the exhibit, Exhibit 82, indicates the
10 Moose River drainage, Albany River, Attiwapiskat,
11 Winisk and Severn. Is that your understanding of the
12 five within the James Bay/Hudson Bay basin?

13 A. Without looking at a map I can't be
14 sure. That seems to be true for Ontario.

15 Q. And do you agree with me that within
16 the Moose River drainage region there are a number of
17 rivers?

18 A. Yes.

19 Q. The Abitibi, the Mattagami,
20 Missinaibi and the Moose, and their smaller
21 tributaries; is that right?

22 A. And their smaller tributaries, yes.

23 Q. And apart from the Moose River
24 drainage region, the other four about been excluded
25 from consideration by Hydro on other grounds; is that

1 right?

2 A. The four northern rivers have been
3 excluded, yes.

4 Q. So, we come down to one possible
5 basin containing a number of rivers; right?

6 A. The attainable potential hasn't been
7 specific as to sites.

8 Q. No, I am talking about the geography,
9 not the intrusion.

10 The pristine basin consisted of the four
11 rivers and their tributaries?

12 A. I am not sure I understand your
13 question.

14 Q. Going back for a minute to the
15 announcement of September 24, do you agree that the
16 basis for Hydro's approach in relation to part of or
17 one of the rivers in the Moose River Basin was the
18 desire to have or the acceding to the claim for native
19 participation as an equal partner?

20 MS. QUINN: A. I'm sorry, could you ask
21 the question again? I didn't quite catch the front
22 end.

23 Q. Yes. Ms. Quinn, you answered the
24 questions in relation to the announcement.

25 Would you agree that the basic principle

1 and thinking behind the decision in relation to one of
2 the rivers, the Abitibi in the Moose River Basin, was
3 an acknowledgement of the desirability of operating
4 with the native interests up there as equal partners?

5 A. Yes, and that's really what
6 co-planning refers to.

7 Q. Right. That decision was announced
8 some three weeks after the visit to the Moose River
9 Basin; was it not?

10 A. I think that's about right.

11 Q. And you were there?

12 A. Yes.

13 Q. Do you agree with me that local
14 feeling in Moosonee and Moose Factory was 100 per cent
15 against Hydro's plans for the Moose River Basin?

16 A. It was predominantly, but I can't say
17 100 per cent.

18 Q. Did the decision in relation to the
19 Abitibi follow and arise out of that visit?

20 A. I'm sorry, you have referred to the
21 Abitibi, do you mean in the basin or do you mean
22 specifically the Abitibi River?

23 Q. The Abitibi.

24 A. To do with the Abitibi, not -- there
25 isn't a direct relationship. As far as I understood

1 most of the comments, they weren't --

2 Q. They weren't river-specific?

3 A. Not extensively.

4 Q. Right, they weren't. They were
5 related to all the rivers in the basin; is that right?

6 A. I should speak to that point, I am
7 sorry, I am nodding.

8 Yes, that's right. I agree.

9 Q. I will ask the question again. Was
10 this decision in relation to the part of the Moose
11 River Basin a direct result of the visit to Moosonee
12 and Moose Factory?

13 A. It was one factor, and I fear using
14 the word factor, but it was one factor. I think there
15 are other dynamics at play and those are the ones that
16 we have referred to in our announcement.

17 Certainly there was a lot of concern
18 expressed, and Ontario Hydro does want to respect
19 people affected by potential development. We aren't
20 seeking seeking construction permits and I guess there
21 was some sense on the part of some people that that may
22 be what we were doing through this hearing and it was
23 important to try and communicate in some way that we
24 weren't intending to proceed until many other things
25 had fallen into place. So yes, that aspect was one of

1 the factors taken into account.

2 Q. Were you involved in that decision
3 yourself?

4 A. The decision was made at a very
5 senior level. I was called on to have some discussions
6 but I wasn't the decision-maker.

7 Q. And do you know whether there was any
8 discussion in Hydro of the possibility of that kind of
9 decision prior to the site visit to Moosonee and Moose
10 Factory?

11 A. Yes, I know there was.

12 Q. And you have indicated that that
13 visit was a factor. Was that what one might call the
14 culminating incident?

15 A. I can't be sure, to be honest. I
16 know it was one of the factors. I think there were
17 other factors that were being considered by senior
18 people in discussion with the Minister of Native
19 Affairs. And so I can't give it that strategic
20 importance, although I wouldn't want to dismiss it.

21 Q. You have indicated, quite right, that
22 the objections that were put at the meetings at
23 Moosonee and Moose Factory applied to the whole Moose
24 River Basin.

25 Can you tell us then why the decision

1 that was announced on September 24th applies to only
2 half of the basin?

3 A. The environmental assessment for the
4 Mattagami Complex had already been submitted and there
5 had been government encouragement to submit that
6 particular environmental assessment and we had acted on
7 that.

8 Basically, what we were saying was that
9 development past that point, which seemed to be
10 somewhat in keeping with the references made by people
11 in those meetings, and I may be incorrect here, but it
12 struck me that they were often concerned about dams
13 close to their particular locations rather than further
14 away, I am referring specifically to the meetings in
15 Moosonee and Moose Factory, and that suggested to me
16 more of the Abitibi and Moose River developments rather
17 than the Mattagami Complex itself which is more distant
18 from those two communities.

19 Q. Would you agree with me that
20 consequent on the decision that was announced on
21 September 24th, a co-planning process for the whole of
22 the Moose River Basin is impossible given the decision
23 to proceed with the Mattagami?

24 A. No, I don't think so.

25 Q. At the moment.

1 A. Is it impossible at the moment? Yes,
2 because it is our choice to not proceed with it. I
3 guess that's the answer to your question.

4 Q. So then that would be, would it not
5 be inconsistent with the integrated ecosystem river
6 basin approach that is advocated in the Sears and
7 Patterson paper?

8 A. No. Like Mr. McCormick, I really see
9 the discussion of the river system approach as being
10 something relating the next step in planning which I
11 would think would have to do more with ordering and
12 sorting and the consideration of development as opposed
13 to just attainable potential.

14 [12:20 p.m.]

15 Q. I'm sorry, I didn't understand the
16 answer.

17 A. The notion of wise or ecosystem
18 planning within a basin, I think has to do with the
19 ordering and sorting at the sequencing of activities
20 and the respect of the various components of the
21 environment social and natural that are within that
22 particular area.

23 And I see that as being something that is
24 done when you are considering hydroelectric
25 developments per se not just the discussion of

1 attainable potential. So I really see it as being
2 related to the next step of activities, not
3 specifically speaking this step.

4 I don't disagree with the wisdom of the
5 approach. And I, like Mr. Snelson, would think it is
6 an important factor to keep in mind, but I just feel it
7 comes at the next stage.

8 Q. In arriving at the decision that was
9 announced on September 4th, was consideration given to
10 the implications of different approaches to two rivers
11 within the same drainage basin?

12 DR. CONNELL: Excuse me, Mr. Kelsey, you
13 said September 4th.

14 MR. KELSEY: Sorry, 24th.

15 DR. CONNELL: Just for the transcript,
16 thank you.

17 MR. KELSEY: Yes, 24. Thank you.

18 MS. QUINN: Can you help me with that
19 again. Was consideration given to...?

20 MR. KELSEY: Q. The implications and
21 difficulties that might arise from having a different
22 approach, planning approach, to two rivers in the same
23 drainage basin.

24 MS. QUINN: A. It was acknowledged that
25 there were two levels of activity going on: one that

1 was project specific associated with Mattagami where an
2 Environmental Assessment actually has been submitted to
3 the provincial government, and consideration of --
4 well, three levels. Of a plan assessment, which would
5 cover the whole basin, including the Mattagami area,
6 and then this level, which is one step more abstract.
7 So there was an awareness of that, but I think you are
8 asking something slightly different than that.

9 Q. Let's establish one thing. The
10 Mattagami River is part of the Moose River Basin?

11 A. Yes, it is.

12 Q. And my question is: Was there any
13 consideration given to the fact that the apparent
14 processes, planning processes in relation to the two
15 rivers in the same basin are completely different?

16 A. And the second --

17 Q. And was there any consideration given
18 to treating them both alike, treating the whole basin
19 as one?

20 MR. FLOOK: A. Perhaps I could assist
21 Ms. Quinn on that. It was recognized by the
22 decision-maker.

23 Q. What was?

24 A. That there could be some problems
25 arising from the two ways of dealing within the Moose

1 River Basin, two aspects. And that that cessation of
2 the study process to develop a co-planning process and
3 not including the Mattagami River's extensions bore
4 certain problems.

5 Q. These are planning problems, are they
6 not?

7 MS. QUINN: A. Well, they are different
8 planning processes. I guess we are speaking to that
9 points more than to the geographical distinction of
10 rivers.

11 Q. I just want to follow up on what Mr.
12 Flook said. And the problems you have indicated are
13 planning problems, are they not?

14 MR. FLOOK: A. I believe the
15 decision-maker made the decision, and recognizing not
16 necessarily in the planning point of view but perhaps a
17 political point of view.

18 Q. When you refer to a political point
19 of view, are you talking about the contrary feeling
20 expressed in the Kapuskasing Region?

21 A. Or a contrary feeling within the
22 Moose River Basin, either one. Contrary feelings that
23 could occur.

24 Q. In other words, have you reviewed the
25 reports of the visit to the Moose River Basin and

1 Kapuskasing?

2 A. I haven't reviewed them extensively,
3 no. But I --

4 Q. No doubt you have been told by Ms.
5 Quinn that the feeling that was expressed in
6 Kapuskasing was fairly uniform in favour, not only of
7 proceeding with the Mattagami but also fast tracking.
8 Have you been told that?

9 A. She hadn't told me that, but I will
10 assume it from your statement.

11 Q. Was that a factor in adopting one
12 approach to the Abitibi and one to the Mattagami?

13 A. No. I believe the whole thought
14 process had been going on for a period of time long
15 before that.

16 Q. But it was, as you say, recognized
17 that there were problems associated with this approach
18 to the Mattagami and the Abitibi. This is in the
19 context of planning considerations, were they seen as
20 planning problems?

21 A. I don't believe they were seen as
22 planning problems.

23 MS. QUINN: A. May I help here. They
24 were seen as not having to do with geography so much as
25 with the make-up of interests within the area. We had

1 with government encouragement and because of activities
2 associated with the contract been advised to
3 participate and prepare an environmental assessment to
4 do with a particular complex: Mattagami.

5 But as was pointed out earlier, Cypress
6 Falls, a particular site that has been referred to here
7 is also on the Mattagami, so it's not as though we
8 geographically separated things out in our mind.

9 To be honest, we had more consideration
10 for the people affected, the types of development, the
11 level of concern, the relationship with the provincial
12 government and their direction, and the signing of
13 agreement between them and First Nations.

14 Q. What planning principle was it that
15 put Cypress Falls on the Mattagami in the co-planning
16 process and not Smoky Falls, Harmon and Kipling?

17 A. Co-planning was offered as well. At
18 the time we were doing that project-specific
19 environmental assessment, co-planning was also offered.

20 Q. I am talking about Hydro's approach
21 to planning. What planning principal resulted in a
22 co-planning approach to one site on the river and not
23 to the others?

24 A. Cypress Falls was not considered part
25 of the Mattagami complex. Had it been, co-planning

1 would have been extended to that but it wasn't
2 considered part of that particular development complex
3 that was initially identified for --

4 Q. But when say complex, this is Hydro's
5 categorization. It has nothing do with the river, does
6 it. I mean we are talking about one river, aren't we,
7 the Mattagami?

8 A. Yes, we are talking about one river.

9 Q. And when you say complex, this is a
10 Hydro classification of a part of the river.

11 A. Yes, that's right. And there were
12 existing stations that we were going to be redeveloping
13 and extending in a particular way. And Cypress Falls
14 was different in characteristic.

15 Q. Has any consideration been given by
16 Ontario Hydro in its planning process to applying a
17 co-planning principle to other parts of Northern
18 Ontario?

19 A. Yes.

20 Q. Has that been done recently.

21 A. It was offered in the site specific
22 work associated with Little Jackfish. At early stages
23 it was also offered to everybody in the Moose River
24 Basin to participate in the Moose River Basin plan
25 assessment. It has been offered on Patten Post as

1 well.

2 Q. Sorry, I should clarify the terms.
3 Co-planning in the sense in which it has been applied
4 to the Abitibi, that is, by agreement only, with
5 affected local interests.

6 A. The co-planning process which has to
7 do with the planning of studies --

8 Q. No. Sorry, co-planning agreement
9 process perhaps would be better then. The Abitibi
10 situation, where Hydro isn't actually going to proceed
11 unless it has the agreement of the affected local
12 people to the process.

13 A. Yes, that's correct.

14 Q. Has that type of approach, giving the
15 locals a veto in effect, been considered as possibly
16 applying to any other area of Northern Ontario?

17 A. In the Little Jackfish project where
18 we offered co-planning -- and if I can just correct or
19 be specific. By co-planning we really mean the doing
20 of studies together because there is an inadequate data
21 base and reaching agreement on how all of that is done.

22 That was offered in the Little Jackfish.
23 The Aboriginal community affected didn't want to
24 proceed with those studies and so we reverted back to
25 public consultation where we did the studies and there

1 was a verification process that went on, but it wasn't
2 the same as actually preparing the studies jointly. So
3 that has been offered elsewhere.

4 Q. But there was no statement to the
5 affected groups -- the Sand Bay Natives I think, isn't
6 it, around Lake --

7 MR. FLOOK: A. White Sand is the....

8 Q. White Sand, right, thank you.

9 There was no statement or consideration
10 of putting the same policy to them in that area as had
11 been put and implemented on the Abitibi?

12 MS. QUINN: A. That's correct.

13 And I think if I can refer you back to
14 the announcement that things have changed. There is
15 now a government recognition and government agreement,
16 statements of political relationships, which has
17 changed very much how groups work together with
18 Aboriginal people, in particular with First Nations
19 because that agreement is with First Nations.

20 But may I interpret your reference to
21 Abitibi as meaning the developments or potential within
22 the basin beyond the Mattagami --

23 Q. The Abitibi style of co-planning by
24 agreement only is what I am referring to.

25 A. That's fine. I would refer to it as

1 the Moose River Basin approach and not specifically
2 just tag the one river, the Abitibi. But as long as we
3 are speaking about the same thing, that's fine.

4 Q. Let's compromise on part Moose River
5 Basin then.

6 A. All right.

7 Q. Has consideration been given to
8 applying that approach, the part river Moose River
9 Basin approach, to other areas in Northern Ontario
10 then: That by agreement only will a project proceed?

11 A. Well, you can't proceed to do studies
12 together unless there is agreement. So we have offered
13 that. We have been turned down on Little Jack Fish.
14 We proceeded however with the studies through a
15 consultation format. And if you are asking whether or
16 not we have given that --

17 THE CHAIRMAN: I think you are not really
18 answering his question if I can say so, with respect.

19 MS. QUINN: I guess I am not quite
20 understanding.

21 THE CHAIRMAN: I think the question is
22 has there been -- I take it you had never made such an
23 arrangement before as the arrangement that you
24 announced on September 24th. No arrangement of that
25 kind had ever been made before. Am I right about that?

1 MS. QUINN: Yes, that's correct.

2 THE CHAIRMAN: The question is: Are you
3 contemplating other arrangements of a similar nature or
4 are you not contemplating?

5 MS. QUINN: Not at this time, not for the
6 future.

7 MR. KELSEY: Thank you, sir.

8 Q. The difference between Hydro's
9 approach to the Abitibi and Little Jackfish is that in
10 Abitibi Hydro is saying in the absence of agreement we
11 won't proceed; in relation to Little Jackfish, Hydro is
12 saying in the absence of an agreement we will proceed?

13 MS. QUINN: A. Yes, that's correct.

14 Q. What's the planning basis for that?

15 A. The studies that were being proposed
16 for the Moose River Basin or part of the Moose River
17 Basin actually required that participants throughout
18 the Basin, Aboriginal and non-Aboriginal, be involved
19 in the studies or you couldn't do them.

20 There wasn't really a data base that
21 existed to any great extent and so this was original
22 research that would have to be done. It isn't as
23 though you could turn to Statistics Canada and find out
24 the information you needed. It would involve all sorts
25 of agencies working together, all sorts of people at

1 different levels in different combinations
2 participating in the studies. So it was a very
3 practical planning decision to not proceed with the
4 studies.

5 Q. And that's the reason for applying
6 completely different approaches to each one, is it?

7 A. Well, I think we have referred to
8 other reasons as well but that certainly is one.

9 Q. What others are there?

10 A. The fact that between the time the
11 Little Jackfish project had been considered, in fact
12 even the Mattagami project, there has been an agreement
13 signed between First Nations and the provincial
14 government, and the provincial government has
15 established a set of circumstances where First Nations
16 want to deal directly with with government on a
17 government to government basis and Ontario Hydro
18 reports to the government.

19 Q. There is a possibility, presumably,
20 that the same thing may apply to Patten Post, isn't
21 there?

22 A. Yes.

23 Q. No proceeding without a co-planning?

24 A. That may be.

25 MS. PATTERSON: If I could just interrupt

1 for a minute, Mr. Kelsey. In Little Jackfish, did you
2 have a data base that was useful to use at the time
3 that you started studying that project?

4 MS. QUINN: Yes, we did. And in fact the
5 Aboriginal communities involved were part of the
6 consultation program and at some point part of the
7 liaison committee.

8 And what we would do is we would collect
9 the data, we would be in the communities and collect
10 data and speak to people and put it together, assemble
11 it, and then they would verify it.

12 So it's not our preferred approach
13 because we would like to have the community members
14 preparing the data and we feel that it is something
15 that also can contribute to their own development if
16 they so wish to learn how to do planning studies or to
17 benefit from the doing of them in some way.

18 But we did have an adequate data base at
19 the time and we filed the Environmental Assessment for
20 Little Jackfish.

21 MS. PATTERSON: Thank you.

22 MR. KELSEY: Q. Would you agree with me
23 that the result of the matters that we have been
24 dealing with in relation to the Moose River Basin,
25 Abitibi and the Mattagami on the one hand and the

1 Little Jackfish on the other is first of all that there
2 is no co-ordinated planning approach by -- or no
3 uniform planning approach by Hydro to the Moose River
4 Basin? Uniform in that the whole basin is not being
5 treated alike. Do you agree with that?

6 MS. QUINN: A. Within the plan
7 assessment studies for the Moose River Basin, the whole
8 basins would have been treated alike.

9 Q. But in terms of the planning as it
10 now stands, different parts of the Basin are being
11 treated for planning purposes differently?

12 A. Yes, for the purposes of this
13 application yes, that's correct.

14 Q. Right. And would you agree with me
15 that Little Jackfish, the planning approach in relation
16 to it, is different from the planning approach in
17 relation to the half Moose River Basin, the Abitibi
18 half if I can call it that?

19 A. Yes, that's correct.

20 Q. There are elements in common, one
21 element in common of course is native interests in
22 both; right?

23 A. Yes, that's right. And their desire
24 to participate, their relationship with the government,
25 many factors have changed over time, so there has been

1 an evolution in our work with Aboriginal people.

2 Q. Has any consideration been given to
3 applying the co-planning agreement process to other
4 areas of northern Ontario where native interests are
5 not as vital?

6 A. There would be nothing to suggest
7 that that wouldn't happen in the future. Again we
8 characterized that process as relating to studies and
9 those studies would probably be at a project-specific
10 stage.

11 Q. I guess what I am asking is if native
12 interests in the Moose River Basin are sufficiently
13 important for Hydro to reach a decision that before
14 planning proceeds there be a co-planning agreement, has
15 Hydro given consideration to that very worthy principle
16 in relation to other areas of Ontario where native
17 interests are not as significant? In other words, if
18 the local interest is so significant in part of the
19 Moose River Basin, why is it not so significant in
20 other areas of Northern Ontario?

21 A. It could well be. And if Hydro --

22 Q. Has it. Has consideration been given
23 so far for that possibility?

24 A. Yes. It would apply when future
25 projects are looked at.

1 Q. Which ones in particular has it been
2 considered in relation to?

3 A. Well, there aren't other projects at
4 this point that are being pursued. We have
5 transmission lines --

6 Q. Ragged Chute?

7 A. It's not being pursued at a
8 project-specific stage at this point.

9 Q. No, I am talking about planning.

10 A. Well, I'm talking --

11 Q. We are at a planning stage, aren't
12 we, with Abitibi?

13 A. Yes. But I think I have been very
14 clear to say that co-planning refers to doing of
15 studies and it's at the project-specific stage or at
16 the plan assessment stage such as for the Moose River
17 Basin. That's what I am specifically referring to in
18 my usage of the phrase "co-planning".

19 We are now working on transmission
20 studies that involve different parts of the province
21 and co-planning agreements have been reached.

22 Q. I think my question goes a little
23 further than that in whether consideration has been
24 given or whether you think it might be given to
25 requiring a local co-planning agreement as a condition

1 precedent to proceeding with planning as in the case of
2 the Abitibi?

3 A. For the purposes of this application,
4 my understanding is no.

5 Q. But you think that it is possible in
6 the future?

7 A. Yes, as it relates to planning beyond
8 this stage in planning.

9 [12:45 p.m.]

10 Q. Yes. In other words, it's not
11 necessarily something that arises exclusively out of
12 native concerns?

13 A. That's true, because it's data base
14 related.

15 Q. Yes. There may well be other local
16 concerns of equal merit that would fit well within and
17 might require a local co-planning agreement?

18 A. Yes, that's the case.

19 Q. Fine. I referred earlier to the
20 principle now supported by Hydro, sustainable
21 development. From Northwatch's point of view, we
22 prefer sustainable future.

23 Would you agree that one of the elements
24 of a sustainable development or future approach to the
25 north would require a concern for the protection of

1 wilderness, with everything that goes with wilderness?

2 MR. McCORMICK: A. I think at this stage
3 all of the factors that would come to apply in terms of
4 developing a methodology or approach to achieving a
5 sustainable development haven't been firmed up at a
6 provincial level or even within Ontario Hydro. So I
7 think it is premature at this point to make any
8 comments on that.

9 Q. All right. Let's have a look at, if
10 you will, document 22 in the Northwatch's documents is
11 the news release on the Parks, Wilderness and Nature
12 Reserves, and it's Exhibit 31. On the first page of
13 it, first page of the news release communique, third
14 paragraph says, it refers to the new policy in relation
15 to the provincial parks.

16 The main element in the new policy is
17 the decision to protect the special
18 values in wilderness and nature reserve
19 provincial parks. The government
20 believes that the need to preserve a
21 certain amount of pure wilderness is too
22 important to compromise. Therefore, a
23 number of activities including
24 hydroelectric development will be
25 excluded.

1 And later on, on the third page of that
2 news release, right at the end, it says:

3 More than 80 per cent of the total
4 land and water base within the park
5 system will be pure wilderness or nature
6 reserves.

7 Can you tell me whether Hydro regards
8 wilderness as a special value?

9 A. I am not sure there is a firm policy,
10 but it would sound reasonable in the context of parks.

11 Q. Sorry?

12 A. It would appear reasonable in the
13 context of parks.

14 Q. That wasn't my question.

15 My question was: Has Hydro or does Hydro
16 consider wilderness to be a special value, first of
17 all?

18 A. Ontario Hydro doesn't have a position
19 on this matter.

20 Q. On whether wilderness is a special
21 value, an environmental value?

22 A. I think we certainly recognize the
23 importance of wilderness and the disturbance of
24 wilderness areas is not a preferred activity. In terms
25 of ordering projects in the future it would likely be a

1 consideration. Beyond that I can't say anymore.

2 Q. Let me put it this way, going back to
3 the classification of positive criteria, has, at any
4 stage in the planning process, consideration been given
5 by Hydro to setting up protection of wilderness as a
6 positive, positive or negative, inclusionary or
7 exclusionary criterion? In other words, the
8 possibility that as a matter of planning approach Hydro
9 regards wilderness or some wilderness as untouchable,
10 apart from the northern rivers, as a special relative,
11 absolute value?

12 A. It was a consideration in the
13 northern rivers. It was not a special absolute value.
14 It was not the sole criteria, if you will.

15 As I mentioned, I think in the next stage
16 in the ordering, in the process, once attainable
17 potential has been defined an attempt is then made to
18 get into a site-specific level and order and sort those
19 particular sites.

20 The wilderness or pristine river basins
21 is a consideration.

22 Q. A consideration for not proceeding
23 with a particular development?

24 A. In ordering, determining preference
25 of one site over -- it's a more relative term than your

1 terminology.

2 Q. No, we are talking about different
3 things. You are talking about ordering, I am talking
4 about the process of arriving at a site at all, either
5 by inclusion or exclusion, whether consideration has
6 been given to wilderness as a value in the process of
7 arriving at a site in the first place, so that the
8 value of wilderness would be used as a principle to
9 exclude a possible site on the basis of its wilderness
10 attributes?

11 MR. SNELSON: A. Perhaps I can help, Mr.
12 Kelsey.

13 Clearly Ontario Hydro has both values
14 that are taken into account in assessing what is the
15 attainable potential and there are also directions that
16 are received about things that should not be in the
17 attainable potential, for instance, from provincial
18 government.

19 And so, the protection of wilderness,
20 very clearly is, as you have read from the Ministry's
21 statements with regard to parks, is one of their
22 factors in setting aside certain areas of the province
23 as parks where hydroelectric development should not
24 proceed. So, in that sense, we have direction from
25 government in that regard.

1 As going beyond that, then I believe that
2 the concept of wilderness has generally been discussed
3 by us with respect to hydroelectric development with
4 respect to pristine rivers. So you could consider that
5 to be, to some degree, one of the weights that's put on
6 our preference for not disturbing pristine rivers.

7 Q. But presumably as a basis for the
8 possible exclusion of a site, the principle of
9 wilderness and pristine rivers was not applied to
10 Little Jackfish, north of Lake Nipigon?

11 A. Little Jackfish is a regulated river.

12 Q. North of Lake Nipigon?

13 A. Little Jackfish river is a regulated
14 river north of Lake Nipigon.

15 Q. What do you mean a regulated river?

16 MR. FLOOK: A. The Little Jackfish river
17 is part of the Ogoki diversion in which the head waters
18 of the Ogoki River are redirected via creation of a
19 reservoir down the Little Jackfish River into Lake
20 Nipigon.

21 Q. Is that in relation to a Hydro dam?

22 A. There are dams involved, yes. But
23 there is no hydroelectric installation.

24 Q. No, that's what I asked. Is it a
25 Hydro dam?

1 A. It's a Hydro dam, yes.

2 Q. Whereabouts?

3 A. There is two dams. Well, there is a
4 numbers of dams. The main dams are one on the Ogoki
5 River called Waboose dam, and one on the head waters of
6 the Little Jackfish River called Summit dam, and then
7 there is number of small earth dams associated with it
8 for containment of the reservoir area.

9 Q. Does that, in Hydro's view then mean
10 that the Little Jackfish River is no longer pristine?

11 A. Correct.

12 Q. Even though it has nothing on it?

13 A. Other than these dams.

14 Q. It doesn't have any dams on it. The
15 dams aren't on Little Jackfish, are they?

16 A. They are on the head waters of it,
17 yes.

18 Q. Further north.

19 A. At the top end of it.

20 THE CHAIRMAN: Rightly or wrongly, the
21 terminology, as I understand it, there are two kinds of
22 rivers, one is regulated and one is pristine.
23 Regulated is one that in its system has some kind of
24 diversion, including a hydroelectric dam; pristine is
25 one that does not. That's the nomenclature that's been

1 used, if I am correct.

2 MR. KELSEY: Q. That's correct, is it,
3 Mr. Flook?

4 MR. FLOOK: A. That's correct. The
5 water flows within the river can be regulated.

6 Q. So you wouldn't apply the pristine
7 river principle then to Little Jackfish River for that
8 reason?

9 A. That is correct.

10 Q. What about the wilderness principle?

11 MR. SNELSON: A. I don't think that we
12 have talked about the wilderness principle. We said
13 that wilderness was a consideration perhaps within the
14 general concept of pristine, but we have not applied a
15 separate wilderness principle at this stage.

16 Q. To any site?

17 A. Not to my knowledge.

18 Q. I may have asked this in a slightly
19 different way before, but what I am trying to get at is
20 whether as part of the planning process Hydro has
21 considered the possibility of wilderness as an
22 exclusionary principle as part of the planning
23 principle -- process?

24 A. I think that the answer that I have
25 given you is that wilderness is captured in two ways:

1 One, it may be a consideration in the provincial
2 government setting aside areas as parkland, so it gets
3 captured that way, and the other is that the concept of
4 not disturbing pristine rivers has some elements of
5 wilderness associated with it, but I wouldn't like to
6 make it total congruence.

7 Q. Has the pristine rivers principle
8 been applied so as to exclude a river from
9 consideration?

10 A. All of the sites that remain within
11 the attainable potential are on rivers that are either
12 already -- that are on regulated rivers. All the sites
13 in the attainable potential are on regulated rivers.

14 Q. Has Ontario Hydro at any stage in the
15 process consulted with any environmental or other
16 groups as to whether the wilderness principle should be
17 and exclusionary principle?

18 MS. QUINN: A. In the option study and
19 the draft demand/supply planning strategy stages, there
20 was consultation and there was government review, and
21 off the top of my head the recollection is that people
22 were concerned about this notion of disturbance.

23 I don't recall anyone specifically
24 speaking to the feature as you have described it, as a
25 wilderness value, and I suspect that's why we are not

1 responding.

2 Q. What outside contacts, if any, has
3 Hydro actually made to see whether there should be any
4 exclusionary or inclusionary principles other than the
5 ones that it has internally generated and is putting
6 forward here?

7 A. Well, during the option study the
8 exercise really was related to inclusion. We asked
9 people in our public and consultation activities what
10 the features were that they thought were positive. And
11 renewable and indigenous and features of that nature,
12 diversity, and so on, some of the points that I have
13 referred to in my direct evidence were points that they
14 spoke to. So there was consultation in that way.

15 We also heard several comments from
16 people that lead us to some conclusions about the
17 exclusionary criteria that have been developed; for
18 example, concern about flooding.

19 Q. In the north?

20 A. Pardon me?

21 Q. In the north. You mean the flooding
22 in the north, in the northern rivers?

23 A. To be honest, it was a point that was
24 made in general, during the option study stage there
25 was a concern about flooding, and so I have to go back

1 to that period.

2 But we sought out positive features and
3 attempted to consider the representative plans and
4 evaluate them in accordance with what we had heard,
5 predominantly looking for positive aspects, but we also
6 at the same time did hear from people some of the
7 negative things that they would think we should avoid,
8 and so we have built those into some of our planning,
9 in the exclusion criteria.

10 Q. And they were adopted to exclude
11 sites, were they, you are suggesting, rather than to
12 mitigate the effects of sites that would actually
13 proceed?

14 A. Well, some of the features that we
15 heard would be addressed specifically at a
16 project-specific stage where mitigation would be one of
17 the activities, but others were basically more of a
18 broad range feature and could be applied at this stage
19 in the planning process.

20 Q. Has Hydro developed a theoretical
21 model for planning? Are they able to confine it at the
22 moment to hydroelectric resources?

23 MR. SNELSON: A. I don't know of a
24 specific theoretical model other than what we have
25 described in the way we have done things.

1 Q. That's practical, isn't it, rather
2 than theoretical?

3 A. Yes. As I said, I think what we have
4 done is a practical way of narrowing down to an
5 attainable potential for development within the next 25
6 years or so, which is the practical question we face.

7 Q. So, would it be true to say then that
8 not a great deal of thought has been put into the
9 process that you went through to arrive at your
10 theoretical -- I am talking about theoretical or
11 principal thought, in arriving at the exclusions, but
12 rather that there were arrived at as pragmatic
13 practical matters as you put it?

14 A. I think that pragmatic considerations
15 were very important.

16 Q. From Hydro's point of view?

17 A. I think that they were pragmatic
18 considerations from the point of view of defining what
19 is an attainable potential for Ontario Hydro to
20 develop. I don't see that as being solely an Ontario
21 Hydro point of view.

22 Q. The last exclusion, the seventh, the
23 suspending of planning in part of the Moose River
24 Basin, is that a principle decision or a pragmatic one?

25 A. I'm not sure I can draw a distinction

1 between principled decisions and pragmatic decisions.

2 It was a decision that was made, and you
3 have explored quite thoroughly, I believe, the factors
4 that went into that decision.

5 Q. Well, it would be pragmatic if it
6 arose out of the particular circumstances of the
7 Abitibi and the overall social native political
8 situation there.

9 Presumably, if you had a theoretical
10 planning model and a principled approach, the principle
11 would not arise out of a particular situation which you
12 had to deal with, or if it did, you would then consider
13 it applicability as a principle to other parts of
14 Northern Ontario or the whole province; wouldn't that
15 be the case, if it were principled and theoretical?

16 MS. QUINN: A. May I offer a point here?

17 Q. Yes.

18 A. I think that it is practical in the
19 sense that we have referred to our potential here as
20 attainable, something that is with the realm of --

21 Q. Of political?

22 A. Of attainment.

23 Q. I see.

24 A. But I think there is a principle
25 component and that has to do with the statement of

1 political relationships. It's a new feature that has
2 been brought to bear and it has influenced our
3 corporate thinking.

4 Q. It was a response to a new political
5 climate in government and native relationships.

6 A. Well, Ontario Hydro has corporate
7 Aboriginal Relations guidelines that were adopted in
8 1990 and at that time we respected First Nations as
9 governments. We were ahead of the government in that
10 specific point, but we are not a government. So when
11 the government actually chose to make official a
12 particular position vis-a-vis the First Nations, there
13 was a prominence and an authority added to all of this
14 that we ourselves couldn't bring to the matter. So, in
15 that way I think there is something of an elevation to
16 the level of principle.

17 Q. One last question to complete my
18 three hours.

19 [1:00 p.m.]

20 Would it be fair to say that in the
21 planning processes categorized essentially as
22 pragmatic, no extensive or no time is allocated towards
23 developing principled environmental considerations to
24 exclude the possibility of developments in order to
25 maintain positive values in particular areas like

1 wilderness for example?

2 A. We do have principles that were
3 developed and explicitly set out in our demand/supply
4 planning strategy, and what --

5 Q. And if we are to find any, they would
6 be there?

7 A. Yes. And that is the formal planning
8 model that was used to help develop this particular
9 plan. But those principles were applicable to the
10 variety of options being considered within the
11 Demand/Supply Plan.

12 MR. KELSEY: Okay, thank you.

13 I have gone one minute over my three
14 hours.

15 THE CHAIRMAN: I have one question. You
16 filed a number of interrogatories running from 87
17 through to 99. I take it that those are analogous to
18 reading in discovery. You didn't refer to them at any
19 time in the course of your questioning but that you
20 wish them to be adopted as part of the evidence of the
21 proponent; is that correct?

22 MR. KELSEY: That's correct. Thank you.

23 THE CHAIRMAN: Would the same go for the
24 other extracts in your brief that were not referred to?

25 MR. KELSEY: Yes. I think I referred to

1 most of them in substance, but yes, that's correct.

2 Yes. Thank you.

3 DR. CONNELL: Panel, the idea of
4 inclusionary planning, which Mr. Kelsey has introduced,
5 I wonder if, referring back to the original DSP, we
6 were presented with a definition phase and a number of
7 projects for which specific approvals were requested.

8 In your view was that part of the DSP?
9 Could that be represented as inclusionary planning?

10 MR. SNELSON: Yes, we do have an ongoing
11 set of studies on specific sites which led to certain
12 sites being in definition phase, environmental
13 assessments have been prepared which talk about the
14 positive reasons why they should go ahead, and so on.

15 We felt somewhat constrained in the
16 preparation of our evidence that that was very
17 site-specific evidence and that what we needed to
18 establish an attainable potential was to talk about the
19 reasons why out of the many thousands of megawatts of
20 hydraulic potential, the attainable potential was 1,400
21 to 1,800 megawatts. And we felt that a lot of the
22 specific good and positive features of individual sites
23 was very site-specific evidence and we chose not to
24 present that in our direct evidence.

25 DR. CONNELL: It would seem to me that it

1 was excluded by a ruling of the panel, but I assume
2 that the direction which was set in the DSP is still
3 going on relevant to other processes?

4 MR. SNELSON: That is correct.

5 DR. CONNELL: Mr. Kelsey has referred to
6 the Mattagami redevelopment and described it loosely as
7 one half of the Moose River Basin. The panel seemed to
8 accept that. I wonder if you do regard that project as
9 affecting in fact one-half of the Moose River Basin?

10 MR. SNELSON: It's four specific sites.
11 They are all redevelopments. And so it is a
12 relatively -- it is a significant part of the megawatts
13 and I would have to look at the numbers to see what
14 proportion of the total megawatts and megawatthours in
15 the Moose River Basin.

16 In terms of the actual effect on the
17 Basin, it would be a much, much smaller part because of
18 its characteristics as being redevelopments rather than
19 new sites..

20 DR. CONNELL: I was thinking of it
21 particularly in terms of area of potential economic and
22 social effects.

23 MR. SNELSON: With respect to flooding,
24 then essentially there is no flooding associated with
25 Mattagami redevelopments, for instance, and that was

1 part of my comment that in terms of its impacts, it
2 would be much smaller than some of the other
3 developments.

4 MS. QUINN: But Dr. Connell, if I may.
5 You are right in that the social or the economic
6 effects may cover a larger study area, if I can use
7 that phrase, than say some of the more specific effects
8 associated with the river itself, the changes to the
9 river itself. So, within the site-specific work, we do
10 make distinctions in study areas.

11 DR. CONNELL: The potential impact would
12 not be felt to any appreciable extent upstream or would
13 it, except insofar as roads and transmission lines come
14 into it, but they are existing.

15 MS. QUINN: Yes. And possibly there
16 would be individuals interested in employment or
17 developing businesses that might be affected, hopefully
18 in a positive way, to some extent.

19 But I should be respectful of the
20 Aboriginal concerns where they feel that their
21 Aboriginal rights and treaty rights are affected. I
22 should be careful because I am not a lawyer and I
23 understand these are being more fully defined, but we
24 do respect a sensitivity to these matters. And to some
25 extent they are not only land-based, they are cultural.

1 And so I wouldn't be reliably able to define the study
2 area associated with that.

3 DR. CONNELL: I would infer from this
4 then that when one describes some fraction of the Moose
5 River, it depends on what kind of impact one is
6 referring to?

7 MS. QUINN: That's right.

8 DR. CONNELL: Finally, referring to the
9 wilderness principle. I can certainly appreciate that
10 Hydro could quite deliberately stay out of certain
11 areas, and indeed has done so, but is it conceivable
12 that Hydro could designate any area as wilderness
13 preserve and hope to exclude other activities? Is that
14 in any way within Hydro's powers? Could you prevent
15 roads being built or mines being developed?

16 MS. QUINN: If Ontario Hydro were to own
17 land or have a long-term lease of some sort, it might
18 be possible that we consider one part of a site set
19 aside for special purposes.

20 I remember working on a project about ten
21 years ago, not hydroelectric, but a particular part of
22 the site was an area where there was some bird
23 migration that was of some significance during two
24 seasons of the year and that part of the site was set
25 aside. There was some fencing done and access was only

1 really available to naturalists' groups in the area or
2 people guided by naturalists' groups. So I don't know
3 if that speaks to your point to any great extent.

4 DR. CONNELL: Are there any such
5 extensive tracts of land, other than those which are in
6 fact used for projects or for transmission lines, that
7 are owned by Hydro?

8 MR. FLOOD: In most cases of course
9 Ontario Hydro is just leasing the land. It doesn't
10 actually own it.

11 MS. QUINN: I am not aware of any but I
12 am not that knowledgeable about the range of land that
13 Hydro has leases on.

14 DR. CONNELL: There are so far as you
15 know - this is a legal question - but so far as you
16 know, there are no powers conferred on Hydro that would
17 allow it to expropriate land essentially as a
18 wilderness preserve?

19 MS. QUINN: No.

20 MR. SNELSON: As you say it's a legal
21 question, but I know of no such powers.

22 DR. CONNELL: Thank you.

23 THE CHAIRMAN: Mr. Kelsey.

24 MR. KELSEY: I just want to make one
25 point. The questioning of Dr. Connell in relation to

1 the planning in relation to the hydraulic plan. I
2 fastidiously avoided asking any questions that in any
3 way related to the part of Chapter 12 in the DSP headed
4 "The Hydraulic Plan" for two reasons - they are similar
5 reasons - but in my view that was excluded by your
6 ruling from consideration in this panel and that was
7 confirmed by Ms. Harvie's statement at one stage during
8 Ms. Kleer's cross-examination when she said "We have no
9 hydraulic plan in that sense." So I stayed away from
10 that.

11 So I stayed away from it because I didn't
12 want to be accused of being site specific or getting
13 into a hydraulic plan that no longer exists. So I
14 asked no questions in relation to the planning that
15 resulted in this particular plan. I didn't regard it
16 as within your jurisdiction. I just thought I would
17 explain that. I mean if it is regarded as within this
18 panel, then I perhaps should reserve the right to
19 cross-examine on it later.

20 DR. CONNELL: I didn't mean to imply
21 that, Mr. Kelsey, but I was perhaps exercising a little
22 freedom. Perhaps I wasn't as strictly bound by the
23 constraint as you are. (Laughter).

24 MR. KELSEY: That's the advantage there
25 of sitting where you are sitting.

1 THE CHAIRMAN: All right. We are
2 adjourning ten minutes late and I think because of
3 other commitments that we have that we should probably
4 start ten minutes late also. So we won't reconvene
5 until twenty minutes to three.

6 THE REGISTRAR: This hearing will adjourn
7 until two-forty.

8 ---Whereupon the hearing was adjourned at 1:10 p.m., to
9 be reconvened on Monday, December 9, 1991, at 10:00
10 a.m.

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